

PETITIONER:
DEPUTY COMMERCIAL TAX OFFICER & ORS.

Vs.

RESPONDENT:
CORROMANDAL PHARMACEUTICALS & ORS.

DATE OF JUDGMENT: 12/03/1997

BENCH:
J, B.P. JEEVAN REDDY

ACT:

HEADNOTE:

JUDGMENT:

O R D E R

B.P. JEEVAN REDDY, J.

I agree respectfully with the opinion prepared by my learned brother K.S. Paripooran, J.

Looking at the provisions of the Sick Industrial Companies (Special Provisions) Act, 1985 [the Act], I was wondering how out of tune the Act has become with the economic policies being pursued now in this country. Since 1991-92, we are launched upon, what is being called, liberalisation of our economy. We have given up the policy of protecting our industries against foreign competition on the ground that it has given rise to an inefficient and outdated industrial system in our country. Our industries are suddenly being asked to compete with foreign companies, many of whom being giant multi-nationals have vast resources at their disposal. They are merrily gobbling up our poor native companies. Many local industries, unable to stand the said competition are joining the foreign giants in one form of venture or other. Several hundreds of small-scale and medium scale units in telecom sector, for example, have suffered enormously because of our love for foreign companies and their capital. The state of several public sector companies is no better. I am not saying that we have totally embraced, what may be called "Reaganism" or "Thatcherism". The fact, however, remains that it is no longer thought advisable to keep alive inefficient and uneconomic industries by injecting public funds or in the name of safeguarding the employment of the workers. And here is this Act, a product of the era of protectionism seeking to keep alive "sick" companies by pumping in funds - mostly public funds - and by providing various concessions. In the process, nobody enquires why a particular industrial company has become sick, viz., whether it is an induced one or whether it is on account of factors beyond their control. The object of the Act is undoubtedly laudatory but it must also provide for appropriate measures against person responsible where it is found that sickness is caused by factors other than circumstances beyond the control of the management. It is also a well-known fact that the proceedings before the Board of Industrial and Financial

Reconstruction take a long time to conclude and all the while the protective umbrella of Section 22 is held over the company which has reported sick. We have come across cases where unfair advantage is sought to be taken of the provisions of Section 22 by certain industrial companies - and the wide language employed in the section is providing them a cover. We are sure section 22 was not meant to breed dishonesty nor can it be so operated as to encourage unfair practices. The ultimate prejudice to public monies should not be overlooked in the process of promoting industrial progress. We are quite sure that the Government is fully alive to the situation and are equally certain that they must be thinking of necessary modifications in the Act. These few observations are meant merely to record the need for changes in the Act.

JUDIS