

UNION OF INDIA AND OTHERS
v.
M/S. PRINCE RUBBER INDUSTRIES
(Civil Appeal No. 4585 of 2005)

DECEMBER 03, 2010

[MARKANDEY KATJU AND GYAN SUDHA MISRA, JJ.]

Export-Import – Grant of 8 % Cash Compulsory Support premium, against advance import licence under the Scheme – Claim for – Rejection due to closure of Scheme – Writ petition – Direction by High Court to release grant of 8 % Cash Compulsory Support premium against advance import licence as per the Circular with interest since application was made within time – On appeal, held: No infirmity in the order passed by the High Court – Delay/laches – Circular No. 11 dated 05.05.1993.

The respondent claimed grant of 8% Cash Compulsory Support premium against advance import licence under the Scheme funded by the RBI. The Deputy Director General of Foreign Trade by a letter rejected the claim since the Scheme had been closed. In writ petition, the High Court quashed the letter and directed the release of the grant of 8 % Cash Compulsory Support premium with 8% interest per annum, as per circular No. 11 dated 05.05.1993. Therefore, the appellants filed the instant appeal.

Dismissing the appeal, the Court

HELD: There is no infirmity in the impugned judgment. Under Circular No. 11 dated 05.05.1993, the application for relief was to be made by 31.07.1993. The High Court held that the respondent-writ petitioner had applied on 26.07.1993. Hence, its application was within

A time. The authorities concerned failed to take necessary action on the application of the writ petitioner, and their inaction cannot be a ground for denying the claim of the writ petitioner. [Paras 5, 6 and 7] [1189-A-C]

B CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4585 of 2005.

From the Judgment & Order dated 19.1. 2004 of the High Court of Punjab & Haryana at Chandigarh in Writ Petition No. 2116 of 2002.

C Ashok Bhan, Shweta Verma (for V.K. Verma) for the Appellant.

Salil Sagar, Yash Pal Dhingra for the Respondent.

D The Judgment of the Court was delivered by

E MARKANDEY KATJU, J. 1. This appeal has been filed against the impugned judgment and order of the Division Bench of Punjab and Haryana High Court at Chandigarh dated 19.01.2004.

2. The facts of the case have been stated in the impugned judgment of the High Court and hence we are not repeating the same here, except where necessary.

F 3. The Writ Petition in the High Court was filed for quashing the order dated 23.03.2001 of the Deputy Director General of Foreign Trade. By the aforesaid order dated 23.03.2001 the Deputy Director General wrote to the Writ Petitioner (the respondent herein) that its claim for grant of 8 % Cash Compulsory Support premium against the advance import licence under the scheme funded by the Reserve Bank of India cannot be allowed as the scheme had been closed since 1994.

H 4. By the impugned judgment the High Court has quashed the letter dated 23.03.2001 and directed release of the grant

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of 8 % Cash Compulsory Support premium against advance import licence as per circular No. 11 dated 05.05.1993 along with interest at the rate of 8 % per annum. A

5. We see no infirmity in the impugned judgment.

6. Under circular No. 11 dated 05.05.1993 the application for relief was to be made by 31.07.1993. B

7. The High Court has held that the Writ Petitioner (respondent herein) had applied on 26.07.1993. Hence its application was within time. The concerned authorities failed to take necessary action on the application of the Writ Petitioner, and their inaction cannot be a ground for denying the claim of the Writ Petitioner. C

8. Thus there is no force in this appeal and it is dismissed. No cost. D

N.J.

Appeal dismissed.