

(1987) 09 MP CK 0022

Madhya Pradesh High Court

Case No: Miscellaneous Petition No. 390 of 1986

Patel Fab. Machinery
Manufacturers

APPELLANT

Vs

General Manager, District
Industries Centre and Others

RESPONDENT

Date of Decision: Sept. 17, 1987

Citation: (1988) 68 STC 203

Hon'ble Judges: N.D. Oza, C.J; K.K. Adhikari, J

Bench: Division Bench

Advocate: B.L. Nema, for the Appellant; S.K. Dixit, Deputy Advocate-General, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

N.D. Ojha, C.J.

The petitioner asserts that it is carrying on business of manufacture of electrical stampings at Bhopal and is a dealer registered under the M.P. General Sales Tax Act (hereinafter referred to as the Act). It made an application for grant of an eligibility certificate in order to claim exemption from payment of sales tax. This application was dismissed by respondent No.1 by his order dated 1st November, 1985 on the ground that it had been made beyond the period prescribed for making such an application.

2. The case of the petitioner further is that on receipt of the said order, it made representation to respondent No.1, a copy whereof has been attached as annexure E to the writ petition. Subsequently, the petitioner also sent a reminder dated 17th January, 1986, copy whereof has been filed as annexure F to the writ petition. The grievance of the petitioner is that it has not received any reply either to the main representation or to the reminder sent by it. This averment has been made in para 8

of the writ petition.

3. No return has been filed on behalf of the respondents. Consequently we have no reason to doubt the correctness of the statement made in para 8 of the writ petition. It thus appears that respondent No.1 has not considered and passed any order on the representation made by the petitioner as aforesaid. The case of the petitioner further is that even before passing the impugned order dated 1st November, 1985, the petitioner was not given any opportunity to explain as to whether the application made by it for grant of eligibility certificate was or was not within time.

4. In view of the aforesaid circumstances, we are of the opinion that a case has been made out for issuing a suitable direction to respondent No.1 to consider the representation made by the petitioner, a copy whereof has been attached as annexure E to the writ petition, and pass final order thereon expeditiously inasmuch as considerable time since after the making of the representation has already elapsed.

5. In the result, this writ petition succeeds and is allowed to the extent that respondent No.1 is directed to decide the representation made by the petitioner a copy where of has been attached as annexure E to the writ petition, within two months of the production of certified copy of this order by the petitioner. There shall be no order as to costs. Security amount, if deposited, be refunded to the petitioner.