Orissa State Warehousing Corporation vs Commissioner Of Income Tax on 1 April, 1999

Equivalent citations: AIR 1999 SUPREME COURT 1388, 1999 AIR SCW 1066, 1999 TAX. L. R. 456, (1999) 103 TAXMAN 623, (1999) 2 JT 527 (SC), 1999 (2) JT 527, 1999 (2) LRI 527, 1999 (3) ADSC 304, 1999 (4) SCC 197, 1999 KERLJ(TAX) 138, 1999 (5) SRJ 364, (1999) 237 ITR 589, (1999) 150 TAXATION 104, (1999) 153 CURTAXREP 177, (1999) 2 SCALE 420, (1999) 3 SUPREME 460, (1999) 2 SCJ 20

Bench: Umesh C Banerjee, M.Srinivasan

PETITIONER:
ORISSA STATE WAREHOUSING CORPORATION

Vs.

RESPONDENT:
COMMISSIONER OF INCOME TAX

DATE OF JUDGMENT: 11/04/1999

BENCH:
Umesh C Banerjee, M.Srinivasan

JUDGMENT:

BANERJEE, J.

The core question, in these eight appeals, by the grant of special leave against the judgments of the High Courts of Orissa and Rajasthan, centres round the interpretation of Section 10(29) of the Income Tax Act, 1961 (hereinafter referred to as `the Act').. Before however, proceeding further in these matters, it will be convenient to note that hearing of these appeals was taken up together by consent of the parties and these appeals being disposed of by a common judgment by reason of identity of the issue involved in these appeals. The contextual facts in Appeal No. 3476 of 1993 depict that the Orissa State Warehousing Corporation being the assessee herein received a sum of Rs. 1,74,383/- as interest on fixed deposits for the assessment year 1983-84 and since during the relevant period the assessee has had to pay the total interest of Rs.1,08,063/- to the banks, a sum of Rs.66,320/- was added to the income of the assessee as the Income-tax Officer was of the view that question of resultant difference of income being Rs. 66,320/- cannot be said to be an `income exempt' within the meaning of Section 10(29) of the Act. The Commissioner of Income Tax (Appeals), Orissa in the appeal by the assessee upheld the order of the Income-tax Officer but the

Tribunal on a further appeal however, came to a different conclusion to the effect that the income in question was exempt under Section 10(29). Subsequently, however, at the instance of the Revenue, the following two questions were referred to the High Court for opinion under Section 256(1) of the Act :

> 1) "Whether on the facts and in the circumstances of the case, the Tribunal was justified in holding that the interest received by the assessee from the banks on fixed deposits was exempt u/s 10(29) of the I.T.Act, 1961?
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> 2) Whether on the facts and in the circumstances of the case, the Tribunal was justified in holding that the interest received from the banks on fixed deposits was incidental to or consequential to the activities of the business of the assessee and was not taxable under the head `income from other sources' and, thus exempt under section 10(29) of the I.T.Act, 1961?"

The High Court in its turn, however, answered the first question in the negative and against the assessee and thereby affirmed the view of the Income-tax Officer and hence the appeal. Incidentally, the High Court did not deem it necessary to answer the second question by reason of the answer given to question No.1. Since the contextual facts are at slight variation with each other in these appeals, it would be convenient to deal with the Appeal No.3476 of 1993 at this juncture before proceeding with the factual context pertaining to other seven appeals. Dr. V. Gauri Shankar, the learned Senior Advocate appearing in support of the appeal was rather emphatic in his objections as regards the issue of interest on fixed deposits being ascribed to be forming part of the total income and in elaboration of the same drew our attention to some of the basic provisions of the Act. Apart from reliance on Section 2 (45) of the Act which defines total income as total amount of income referred to in Section 5, strong emphasis was laid on both Sections 4 and 5 of the Act.

We do, however, feel it expedient to record that reliance on these basic provisions of the Act having due regard to the facts of the matter under consideration are totally misplaced and we ought not to detain ourselves on this score any further. In the perspective of the Assessee Corporation being a statutory authority, under the Agriculture and Cooperative Department of the Government of Orissa established under the Warehousing Corporation Act, 1962, (hereinafter referred to as `the Act of 1962') Dr.V. Gauri Shankar contended that regard being had to Sections 16 and 24 of the Act of 1962 all moneys coming in the hands of the Corporation have to be deposited in the Bank Account maintained by the Corporation and the same being a statutory obligation, the question of income therefore, cannot but be termed to be a part of the functioning of the unit and as such exempt under Section 10 (29). In this context and having regard to the specific submissions made by Dr. V. Gauri Shankar in support of the appeal it would be convenient to note the above-noted two statutory provisions for its proper appreciation. Section 16 of the Act of 1962 reads thus: "16. (1) To the Warehousing Fund shall be credited-

(a) all moneys and other securities transferred to the Central Warehousing Corporation under the clause (c) of sub-

section (2) of section 43;

(b) such grants and loans as the Central government may make for the purpose of the Warehousing Fund; and

(c) such sums of money as may, from time to time, be realised out of the loans made from the Warehousing Fund or from interest on loans or dividends on investments made from that fund.

(2) The Warehousing Fund shall be applied-

(a) for advancing loans to State Governments on such terms and conditions as the central Warehousing Corporation may deem fit for the purpose of enabling them to subscribe to the share capital of State Warehousing Corporations;

(b) for advancing loans and granting subsidies to State Warehousing Corporations or to State Governments on such terms and conditions as the Central Warehousing Corporation may deem fit for the purpose of promoting the warehousing and storage of agricultural produce and notified commodities otherwise than through co-operative societies;

[(c)] for meeting the expenses incurred in relation to the training of personnel, or publicity and propaganda, for the purpose of promoting warehousing and storage of agricultural produce and notified commodities;

(d) for meeting the expenses, including the salary, allowances and other remuneration of the officers and other employees, incurred in relation to the administration of the Warehousing Fund.] Section 24 of the Act of 1962 is reproduced herein below:-

24. Subject to the provisions of this Act, a State Warehousing Corporation may-

(a) acquire and build godowns and warehouses at such places within the State as it may, with the previous approval of the central Warehousing Corporation, determine;

(b) run warehouses in the State for the storage of agricultural produce, seeds, manures, fertilizers, agricultural implements and notified commodities;

(c) arrange facilities for the transport of agricultural produce, seeds, manures, fertilizers, agricultural implements and notified commodities to and from warehouse;

(d) act as an agent of the Central Warehousing Corporation or of the Government for the purposes of the purchase, sale, storage and distribution of agricultural produce, seeds, manures, fertilizers, agricultural implements and notified commodities; and

(e) carry out such other functions as may be prescribed."

A plain reading of the above-noted statutory provisions, does not however lend any support to the contention of Dr. V. Gauri Shankar though, however, Rule 16 of the Rules framed under the said Act may have some bearing in regard thereto. In any event the factum of deposit of moneys with the bank does not take the matter any further by reason of the specific language and the expression used in Section 10 (29) of the Act which reads as below:- "10. In computing the total income of a previous year of any person, any income falling within any of the following clauses shall not be included..

(29) In the case of an authority constituted under any law, for the time being in force for the marketing of commodities, any income derived from the letting out of commodities, any income derived from the letting out of godowns or warehouses for storage, processing or facilitating the marketing of commodities."

On a plain reading of Section 10(29) of the Act as above, it appears that the pre-requisite element for the entitlement as regards the claim for exemption is the income which is derived from letting out of godowns or warehouses for storage, processing or facilitating marketing of commodities and not otherwise. The legislature has been careful enough to introduce in the Section itself, a clarification by using the words `any income derived therefrom', meaning thereby obviously for marketing of commodities by letting out of godowns or warehouses for storage, processing or facilitating the same. If the letting out of godowns or warehouses is for any other purpose, question of exemption would not arise. In continuation of his submissions, Dr. V.Gauri Shankar contended further that a taxing statute ought not to be interpreted with a narrow and restrictive meaning attached to the words used therein but a liberalised meaning ought to be attributed so as to give full play to the statutory intent. While it is true that in the event of there being any doubt in the matter of interpretation of a fiscal statute, the same goes in favour of the assessee, but the fact remains and the law is well settled on this score that in the matter of interpretation of the taxing statutes the law courts would not be justified in introducing some other expressions which the legislature thought fit to omit. In the present context, there is no doubt as to the meaning of the words used in the Section by reason of the language used, neither there is any difficulty in ascertaining the statutory intent. Incidentally, it cannot but be said that an exemption is an exception to the general rule and since the same is opposed to the natural tenor of the statute, the entitlement for exemption, therefore, ought not to be read with any latitude to the tax-payer or even with a wider conotation as is being suggested by Dr. V. Gauri Shankar but to restrict its application to the specific language used depicting the intent of the legislature. In fine, on behalf of the assessee, it has been contended that interest on fixed deposit is incidental to the business income and when the business income is not taxable then and in that event, it would be incorrect to include the interest income earned on that within the purview of tax. Similar however, was the submission before the Tribunal and the Tribunal accepting the same recorded the following in its order pertaining to the same as below: "It is a surprising proposition that when the income itself is not taxable how the interest earned on such income becomes taxable. There is no doubt that the income earned on any income is taxable but what is required to look into is the circumstances and incidental activity of the appellant. The incidental activity of the appellant taxes me to consider that the interest earned by it is not taxable. Moreover I am fortified in my view with the decision of the Jaipur Bench of the Tribunal.

7. I have also considered the facts on record. I have heard both the parties. I have taken into consideration the case law relied on by the learned counsel for the assessee. After examining everything the cumulative effect which comes to indicate is the interest income earned by the appellant on the exempted income cannot be brought to tax."

The above excerpts go to show that the Tribunal has proceeded on the basis, as if the deposits are totally exempt in terms of Section 10(29) of the Act but unfortunately there is neither any factual support nor any sanction in law. Section 10(29) is categorical in its language and this exemption is applicable only in the circumstances as envisaged under the Section as noticed herein before. Needless to say that the word `any income' as appearing in the body of the statute is restrictive in its application by reason of the user of the expressions `derived from'. In the event the intent of the legislature was otherwise, there was no embargo or restraint to use and express in clear and unequivocal language as has been so expressed in Sections 10(20A) or 10(21) or 10(22B) or 10(20BB) or Section 27. These statutory provisions go to show that wherever as a matter of fact the legislature wanted an unrestrictive exemption the same has used `any income' without any restriction so as to make it explicit that the entire income of the assessee would be exempt. The factum of the Corporation being put into funds by itself cannot be termed to be a fund to facilitate the marketing of the commodities, as such question of the interest income accruing therefrom being exempt from tax as has been held by the Tribunal does not and cannot arise. Mr. C.S Vaidyanathan, Addl. Solicitor General, appearing for the Revenue contended that as a matter of fact the Tribunal has not been able to assess the situation in its proper perspective and the High Court was right in answering the reference in favour of the Revenue. It has been contended that deposit of all sums in the bank account does not by itself clothe the assessee to claim exemption irrespective of the factum of there being a statutory obligation to do so, unless such claim for exemption falls squarely and evenly within the four corners of the statutory requirement and we do feel it expedient to record our concurrence on this score as noticed above. At this juncture, however, it would be convenient to turn attention on to the contextual facts in Appeal Nos. 4042-4048 of 1994 where from it appears that more or less under similar situation the Income-tax Officer came to a conclusion that the income other than the warehousing activities is not exempt, and therefore, exemption was not allowed. The Commissioner of Income-tax being of the same view, the matter went before the Tribunal wherein the Tribunal did set aside the order of the Commissioner of Income Tax and came to a conclusion that the items ought to be treated as exempt under Section 10(29) since they do come within the purview of exemption by way of facilitating the marketing of the commodities as envisaged under Section 10(29). The Tribunal, however, at the instance of the Revenue referred the following question under Section 256(1) of the Income-tax Act for the assessment year 1974-75 to 1982-83 to the High Court- the question being:-

> "Whether on the facts and circumstances of the case the Income Tax Appellate Tribunal was justified in holding in law that the entire gross receipt of the assessee were eligible for exemption under Section 10(29)?"

The Rajasthan High Court upon consideration of the facts however by reason of the identity of the issue disposed of the references by one single order and answered the reference in favour of the Revenue in one common order with, however, a further observation as below:

> "it would however, be open for the Tribunal to consider the income which has been derived from different sources other than those which have been considered above, and to go into the details of them and then to come to a finding that whether such income could be said to be the income out of letting out godowns for the three purposes mentioned in Section 10(29) of the Act."

Be it noted that the Tribunal in these Civil Appeals (4042-4048 of 1994) has interpreted the words "facilitating the marketing of the commodities" as one integrated activity since assessee derives its income from the following three sources: (I) from letting out of warehouses (II) interest (III) from any agricultural produce on behalf of Food Corporation of India and the State Government.

The Tribunal as a matter of fact did accept the submissions on behalf of the assessee that the activity is single, indivisible and integrated and that all the activities are aimed at facilitating the marketing of the goods. The Tribunal held :

> "....that the activity of the assessee is integrated one and that the entire activity is aimed at facilitating the marketing of all the goods.
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> The assessee owns warehouses where the agricultural produce are stored. For storage food grains, the assessee constructs new warehouses also. Maintenance of the warehouses is also done by the assessee.
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> Procurement of good grain was done by the assessee at the instance of the State Government and FCI.
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> In the nature of the activity being carried on by the assessee, it cannot be said that the assessee's activity of warehousing is different from the other activities. The Gujarat High Court in 124 ITR 282 in the case of Gujarat State Warehousing Corporation, held that marketing includes all business activities directed towards the flow of goods and services from producer to consumer. Similar view has been taken by other High courts also. Relying on this authority, we hold that whole activity being carried on by the assessee is integrated one and that the activities of the assessee cannot be split up. The issue arising out of this case is not re integra and the question whether the charges being received from State Govt./FCI for procurement of grains qualify for exemption or not u/s 10(29) was already discussed by Allahabad Bench `B' of the Appellate Tribunal in the case of U.P. State Warehousing Corporation pertaining to the assessment year 1973-74 and 1974-75. Copy of such order is on pages 10 & 11 of the paper book.
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> The U.P. State Warehousing Corporation, Lucknow also received commission from Food Corporation of India for procuring and storing wheat and other food articles on its behalf. The question arose whether the said commission income was exempt u/s 10(29). Allahabad Bench `B' having accepted the contention of the assessee allowed exemption u/s 10(29). When commission received from FCI on the procurement of

grains is exempt u/s 10(29), we do not see any reason why the income received from the State Govt. for the procurement of grains is not covered by Section 10(29). Such income, we think, is fully covered by the expression "facilitating the marketing of commodities", occurring in Section 10(29).

Relying of the decision dated 8.11.77 of Allahabad Bench `B' supra, we hold that the assessee is entitled to exemption in respect of Rs.11,06,034.33 representing Administrative Overheads Charges.

The interest income amounting to Rs.11,41,350.23, is also fully covered by the decision of Allahabad Bench `A' of Appellate Tribunal. The copy of the said order is on pages 1 to 5. This case also pertain to M/s. U.P.State Warehousing Corporation. The said Corporation earned interest on short-term fixed deposits. Idle money belonging to the Corporation was deposited and the interest was earned. The question arose whether such interest income qualifies for exemption u/s 10(29). Allahabad Bench `A' answered the said question in affirmative and in favour of the assessee. Following the said decision dated 31.7.76, page 1 to 5 of the paper Book, we hold that the assessee is entitled to claim exemption in respect of interest income amounting to Rs.11,41,350.25.

Then, we take up the supervision charges, fumigation service charges and Misc. income amounting to Rs.23,790.67, Rs.6538.85 and Rs.48,253.49 respectively for consideration. The assessee having carried on the single and indivisible activity, we hold these items qualify for exemption u/s 10(29) as they are fully covered by the expression "facilitating the marketing of commodities", as occurred u/s 10(29)".

In the reference, however the High court observed:

".....The income which is exempt under this clause must be derived from `letting of godowns', for facilitating the marketing of commodities. The words `facilitating the marketing of commodities' cannot be considered independently and, therefore, the exemption which has been granted is for the income which has been derived from letting of the godowns, the source of income which has been exempted in this clause. The assessee may have different source of income, but the exemption is not given to the assessee on its entire income, but only that part of the income which arises from letting of the godowns for facilitating the marketing of commodities.

.....It is only the specific purpose which has been given for letting of the godowns and such three purposes are: (1) Storage; (2) Processing; and (3) facilitating the marketing of commodities. The godowns can be let out for storage of the commodities. Similarly, the godown can be let out for processing of commodities and the godown can be let out for facilitating the marketing of commodities. The letting of godown in all the three circumstances is inevitable and if the main act of letting of godown is absent, then the benefit from facilitating the marketing of commodities

> can not be claimed exempted. The income which has been derived by the assessee from procurement of grains for the State Government/Food Corporation of India is an independent activity, other than the letting of godown, even though letting of godown is encouraged by such an activity it could not be said that the income which has been derived from the receipts from the State Government or Food Corporation of India, could be considered as income from letting out of godowns. The starting point for letting out is receipt of the goods in the godown/warehouses. If the income is not related in respect of the activities which pertains from the stage of receipt of the goods to the despatch of the goods in the godown/warehouses it could not be said to be income related to letting out of the godown."

The High Court went on to record.....

> ".....The income which has been derived from administrative overheads being surplus of recovery over cost of procurement is an independent activity. The State Government or Food Corporation of India could have appointed any other agency for the work of procurement of goods of that person would not have been available. The assessee is not restricted under law to carry on any other business and if the business for acting as an agent has been carried on by him, that activity cannot be considered as letting out of godowns or warehouse for facilitating the marketing of commodities."

Dr. D. Pal, the learned Senior Advocate, appearing in support of these Civil Appeals relied strongly on the decision of this Court in the case of Commissioner of Income Tax, Madras Vs. South Arcot District Co-operative Marketing Society Ltd. (1989 (176) ITR 117) Dr. Pal contended that this exemption under Section 10(29) is for the purpose of developing the economy so as to achieve social upliftment considering the area in question and since law courts exists for the society, the effort of the law court ought always to be to give the widest possible interpretation so that the society would benefit and exemption be made available to achieve the intent and purposes for which the law makers introduced the same in the statute book. Before proceeding further in the matter, it would be convenient, however, to note the observations in the last noted decision (176) ITR wherein this Court observed:

> "We have considered the matter carefully and to our mind, it seems clear that the Appellate Tribunal and the High Court are right in the view adopted by them. As was observed by the Gujarat High Court in CIT v. Ahmedabad Maskati Cloth Dealers Co-operative Warehouses Society Ltd. [1986] 162 ITR 142, while considering the analogous provision of section 80P(2)(e) of the Income-tax Act, 1961, the provision for exemption was intended to encourage co-operative societies to construct warehouses which were likely to be useful in the development of rural economy and exemption was granted from income-tax in respect of income derived from the letting of such warehouses for the storage of fertilisers and other related commodities concerned with co-operative marketing. Having regard to the object with which the provision has been enacted, it is apparent that a liberal construction should be given

to the language of the provision and that, therefore, in the circumstances of the present case, it must be regarded that what the asssessee did was to let out its godowns for the purpose of storing the ammonium sulphate handed over to it by the State Government. The remaining services performed by the assessee were merely incidental to the essential responsibility of using the godowns for the storage of that stock. It is true that a certain sum was paid to the assessee and described as commission for the services performed by it, but having regard to the totality of the circumstances and to the true substance of the agreement, it seems to us plain that the amount was paid merely by way of remuneration for the use of the godowns. In the result, the assessee is entitled to the exemption claimed by it. (Emphasis supplied) Dr. Pal relying upon the said decision very strongly contended that this Court was considering Section 14(3)(IV) of the Income Tax Act 1922 which is in pari materia with Section 10(29) of the Act and the decision of this Court can be treated to be a direct authority for the proposition that widest possible interpretation ought to be afforded to such an exemption and the expressions "letting out its godowns for the purpose of storage, processing or facilitating the marketing of commodities", cannot but be termed to be one integrated activity and as such is entitled to exemption. While at the first blush, the submissions of Dr. Pal in this perspective seemed to be rather attractive, but on a closer scrutiny the same loses its efficacy. Reliance on the last-noted decision is totally misplaced, since the decision is based mainly on the basis of an agreement which however, has not seen the light of the day in the instant matter under consideration and it is only by reason of the substance of the agreement that this Court came to the conclusion that the assessee is entitled to exemption claimed by it. With greatest of deference, the decision of this Court in 176 ITR cannot be said to have expressed any independent view apart from reliance on the decision of the Gujarat High Court in CIT V. Ahmedabad Maskati Cloth Dealers Co- operative Warehouses Society Ltd. [1986] 162 ITR 142. In any event by reason of factual situation, the decision is clearly distinguishable and we are thus unable to record our concurrence with the submission of Dr. Pal that the same is a clear authority in favour of the assessee in the matter of grant of exemption under Section 10(29) of the Act of 1961. It was next contended that as a matter of fact, the Tribunal has arrived at a clear finding of fact and as such this Court in exercise of jurisdiction under Article 136 of the Constitution ought not to question the same and in the event however, the Court feels it expedient by reason of the overriding powers, as conferred by the Constitution, the Court should issue a directive to the Tribunal so as to state the case afresh. We are however, unable to record our concurrence to the submission since the order of the Tribunal as noted above cannot but be attributed to an expression of opinion on a legal issue which is however, not in accordance with the law. For convenience sake, the finding of the Tribunal in this regard is noted as below: "It is argued that the income shown under the heads: procurement of grains for the State Govt./FCI, Interest, supervision charges, fumigation service charges and miscellaneous income are covered by the expression "facilitating the marketing of commodities"

occurring in sub- section (29) of Section 10 and, therefore, the assessee is entitled to exemption in respect of the entire income. So, the question for consideration is whether the assessee is entitled to exemption u/s 10(29) in respect of the income derived from the State Government/FCI for procurement of grains, interest, supervision charges, fumigation service charges and misc. incomes, we find substance in the submissions of Shri Ranka.....

Incidentally, the Statement of Accounts of the assessee depicts that the assessee derived incomes during the period under consideration as below: 1. Warehousing charges Rs.51,06,433.65 2. Administrative overhead being surplus of recovery over cost on procurement activities on behalf of FCI/State Govt. Rs.11,06,034.33 3. Fumigation service charges Rs. 6,538.85 4. Interest Rs.11,41,350.23

5. Misc. Income Rs. 48,253.49 It is against these items of income that exemption has been sought under Section 10(29) of the Act which was negated by the Income-tax Officer as also the Commissioner of Income Tax but the Tribunal reversed the same and thereafter stated the case under 256(1) before the High Court as noticed above. Cost of procurement activity on behalf of FCI or State Government, fumigation service charges; interest; miscellaneous income are termed to be within the ambit of Section 10(29) of the Act. We are however for the reasons noted above and more particularly because of the language of the Section, not in a position to record our concurrence therewith. Further reliance was also placed on the decision of the Allahabad High Court in the case of U.P. State Warehousing Corporation v. Income-tax Officer (1974 (94) ITR 129). We, however, are not in a position to obtain support in any form whatsoever by reason of the fact that the said matter pertains to the issue as to whether the assessee was an authority within the meaning of Section 10(29) of the Act and the High Court's judgment pertains to the same. This decision was however subject to scrutiny before this Court as well and while it is true that there is concurrence of views but the same was however by reason of the factual status and not by reason of any interpretation of law as such, as would be evident from the observations as below:-

> "The third test with regard to the exemptable income being in respect of letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities presents no difficulty because it stands undipsuted that the income derived by the assessee was from letting of godowns or warehouses. (emphasis supplied) In view of the observations of this Court as regards the undisputed facts, question of drawing any inspiration or obtaining support from the decision does not and cannot arise and the same is thus clearly distinguishable. Further reliance was also placed on the decision of the Karnataka High Court in the case of Addl. Commissioner of Income Tax, Karnataka v. State Warehousing Corporation (1980 (125) ITR
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> 136)- wherein the Karnataka High Court came to a conclusion that Section 10(29) of the I.T. Act ought not to be construed in a narrow sense and the same includes every activity of purchase, selling and distribution as also warehousing. This decision also does not, in fact, lend any assistance to the assessee, since the case cited is an authority for the proposition that Karnataka State Warehousing Corporation is an

> authority constituted by law for marketing of commodities and is more or less placed in similar circumstances as that of the U.P. State Warehousing Corporation's case (supra). The decision of the Madhya Pradesh High Court in the case of M.P. Warehousing Corporation v. Commissioner of Income Tax, (1982 (133) ITR
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> 158) however runs counter to the submission of Dr. Gauri Shankar as also of Dr. Pal in support of the claim for exemption. Madhya Pradesh High Court having regard to the provisions of Section 10(20A), (21) and (22) (since omitted from the statute book) observed as below:
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> "It is significant to note that the words "any income"

occurring in Section 10(29) of the Act are qualified by the words "derived from the letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities." Learned counsel for the assessee contended that the clause should be read as follows:

> "any income derived from the letting of godowns or warehouses for storage, any income derived from processing and any income derived from facilitating the marketing of commodities."

In our opinion, it would not be permissible to introduce words in the provisions of clause (29). To do so will be to read in the aforesaid clause words which do not occur there. Moreover, all the activities of a body constituted for the marketing of commodities are such which ultimately may be found to facilitate the marketing of commodities. If income derived from every activity of an authority constituted for the marketing of commodities was meant to be exempted under clause (29), the said provision would have been enacted as follows:

> "any income derived by an authority constituted under any law for the time being in force for the marketing of commodities."

Such a provision would be found in clauses (20A), (21) and (22) of Section 10 of the Act. A perusal of these clauses would show that only such income as is derived from a particular source is exempted by clause (29) of Section 10 of the Act. Therefore, to claim exemption, it must be proved that the income derived by an authority constituted for the marketing of commodities is income which is derived from the letting of godowns or warehouses for the purposes specified in s.10(29), which are storage, processing or facilitating the marketing of commodities. If the letting of godowns or warehouses is for any other purpose, or if income is derived from any other source, then such income is not exempt under that clause."

Further reliance was placed on the decision of this Court in the case of Commissioner of Income Tax v. P.J. Chemicals (1994 (210) ITR 830. In our view, however, reliance thereon is totally misplaced and the same has no relevance whatsoever. The decision of the Allahabad High Court in the case of Commissioner of Income Tax v. U.P. State Warehousing Corporation [1992 (195) ITR 273] in a similar vein also does not advance the case of the assessee any further, as such we need not dilate

much on this excepting however recording that the same does not lend any assistance to the submissions of assessee-appellants. Having due regard to the language used, question of exemption would arise pertaining to that part of the income only which arises or is derived from the letting of godowns or the warehouses and for the purposes specified in Section 10(29) of the Act - as noticed above. The statute has been rather categorical and restrictive in the matter of grant of exemption: storage, processing or facilitating the marketing of the commodities are definitely regarded as three different forms of activities which are entitled to exemption in the event of their being any income therefrom. We do lend our concurrence to the view expressed by the Madhya Pradesh High Court and record that in the event the letting of godowns or warehouses is for any other purpose or if income is derived from any other source, then and in that event such an income cannot possibly come within the ambit of Section 10(29) of the Act and is thus not exempt from tax. The facts in issue pertaining to the interest income on fixed deposit or ascribing the activities of the assessee being termed to be one integrated activity does not and cannot arise. Mr. C. S. Vaidyanathan, Addl. Solicitor General rightly contended that the language being clear and there being no ambiguity, question of there being any integrated activity and reading the same in to the statue would be a violent departure from the intent of the legislature. Let us however at this juncture consider some of the oft cited decisions pertaining to the interpretation of fiscal statutes being the focal point of consideration in these appeals. Lord Halsbury as early as 1901, in Cooke v. Charles A Vogehar Company (1901 A.C. 102) stated the law in the manner following: "a court of law, has nothing to do with the reasonableness or unreasonableness of a provision of a statute except so far as it may held it in interpreting what the legislature has said. If the language of a statute be plain, admitting of only one meaning, the legislature must be taken to have meant and intended what it has plainly expressed, and whatever it has in clear terms enacted must be enforced though it should lead to absurd or mischievous results. If the language of this sub- section be not controlled by some of the other provisions of the statute, it must, since, its language is plain and unambiguous, be enforced, and your Lordships' House sitting judicially is not concerned with the question whether the policy it embodies is wise and unwise, or whether it leads to consequences just or unjust, beneficial or mischievous."

The oft-quoted observations of Rowlatt,J. in the case of Cape Brandy Syndicate v. Inland Revenue Commissioners [1921 (1) KB 64] ought also to be noticed at this juncture. The learned Judge observed: "In a taxing statute one has to look at what is clearly said. There is no equity about a tax. There is no intendment. There is no presumption as to a tax. Nothing is to be read in, nothing is to be implied. One can only look fairly on the language used."

The observations of Rowlatt,J. as above stand accepted and approved by the House of Lords in a later decision, in the case of Canadian Eagle Oil Company Limited V. The King (1946 AC 119). Lord Thankerton also in a manner similar in England Revenue Commissioner v. Ross & Coulter & Ors. [Bladnoch Distillery Co. Ltd. (1948) 1 AE LR 616] observed: "That if the meaning of the provision is reasonably clear, the courts have no jurisdiction to mitigate any harshness in the event the word `penor' is to be read having an in built meaning of harshness. The English Courts as a matter of fact has been consistent in their approach that consideration of hardship, injustice or absurdity pertaining to an interpretation ought to be had with utmost care and caution."

The decision of this Court in Keshavji Raviji & Co. v. Commissioner of Income Tax (AIR 1991 SC 1806) also lends concurrence to the views expressed above. This Court observed: "As long as there is no ambiguity in the statutory language resort to any interpretative process to unfold the legislative intent becomes impermissible. The supposed intention of the legislation cannot then appealed to whittle down the statutory language which is otherwise unambiguous. If the intendment is not in the words used it is nowhere else. The need for interpretation arises when the words used in the statute are, on their terms, ambivalent and do not manifest the intent of the legislature....

Artificial and unduly latitudinarian rules of construction which, with their general tendency to `give the tax-payer the breaks' are out of place where the legislation has a fiscal mission.

Be it noted that individual cases of hardship and injustice do not and cannot have any bearing for rejecting the natural construction by attributing normal meanings to the words used since "hard cases do not make bad laws".

In fine thus, a fiscal statute shall have to be interpreted on the basis of the language used therein and not de hors the same. No words ought to be added and only the language used ought to be considered so as to ascertain the proper meaning and intent of the legislation. The Court is to ascribe natural and ordinary meaning to the words used by the legislature and the Court ought not, under any circumstances, to substitute its own impression and ideas in place of the legislative intent as is available from a plain reading of the statutory provisions.

In the premises, we do feel it expedient to record that by reason of the clarity of expression, question of there being any integrated activity being exempt within the meaning of Section 10(29) of the Act does not and cannot arise. The Madhya Pradesh High Court has correctly applied the law and the comparison effected with other provisions are pointers to the distinction and the same cannot but be termed to be in accordance with the golden rule of construction in the matter of interpretation of statutes.

We do herein record our acceptance of the same and observe that Section 10(29) is singularly singular in its application with its scope restrictive as is evident from the intent of the legislature and as evidenced from the language used therein. In that view of the matter, there is no merit in the appeals, the appeals therefore fail and are dismissed. No order as to costs.