State Of Jharkhand & Ors vs Tata Steel Ltd & Ors on 12 February, 2016

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Bench: N.V. Ramana, Dipak Misra

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4285 OF 2007

State of Jharkhand & Ors. ... Appellants

Versus

Tata Steel Ltd. & Ors. ...Respondents

J U D G M E N T

Dipak Misra, J.

M/s. Tata Steel Limited, the 1st respondent herein, had established a manufacturing unit for production of HRP, rounds, structural and other iron and steel products in Dhanbad situated in erstwhile Bihar. The State of Bihar had on 22.12.1995 formulated an industrial policy for tax exemption and/or deferment to such industrial units which started production between 01.09.1995 and 31.08.2000. The said policy was issued in exercise of power conferred by Section 23A of the Bihar Finance Act, 1981 (for short, "the 1981 Act") and the purpose of framing the policy was industrial growth of the State. The policy stipulated that such industrial units should have the registration certificate indicating that the unit was eligible to have the benefits of the policy. The policy was issued with a view to create an atmosphere conducive for growth of industries and optimum utilisation of the natural resources available in the designated/stipulated area. As is

evident, by the said policy, the Government intended to attract investors from various parts of the country to invest in the identified areas. The major incentive under the policy, apart from others, included eight years sales tax exemption on sale and purchase of material from the date of commencement of production as stipulated in the policy. Keeping in view the purpose incorporated in the policy, exemption notification under the 1981 Act was issued. The appellant expressed its willingness to install a cold rolling mill in Jamshedpur by investing Rs. 2000 crores. After a final decision was taken upon due deliberation, the 1st respondent sought a confirmation from the State of Bihar to assure the commitment to grant sales tax exemption as stated in the policy as an incentive. Number of meetings took place between the authorities of the State of Bihar and the 1st respondent and in pursuance of the discussion, certain amendments in the policy took place, as a consequence of which a communication was made to the 1st respondent for setting up a cold rolling mill with production capacity of 1.02 million tonnes requiring investment of Rs. 1874.04 crores on the project. Regard being had to the discussion and the communication, the 1st respondent invested nearly Rs. 2000 crores on its own and the commercial production commenced from 01.08.2000.

2. When the matter stood thus, the Bihar Reorganisation Act, 2000 came into existence on 15.11.2000 as a result of which Jamshedpur became part of a newly carved out State, namely, Jharkhand. After coming into force of the new State, on 15.12.2000, the Governor of Jharkhand by notification ordered that the 1981 Act, the Central Sales Tax (Bihar) Rules, 1956 and the notifications made thereunder, etc. amongst other Acts, Rules and Regulations, shall be deemed to be in force in the entire State of Jharkhand w.e.f. 15.11.2000. On 21.12.2000, the successor State issued an exemption certificate as contemplated in earlier notification issued by the Bihar State Finance and Commercial Taxes Department exempting the new units which also included the unit established by the 1st respondent, from the purchase tax as well as the sales tax on purchase and sales made in regard to the cold rolling mill. Be it stated that the said certificate was issued after holding proper enquiry by the concerned Joint Commissioner. After due enquiry, he had opined that though the raw materials for the manufacture of CR product is HR product, the CR product is totally different, both in its metallurgical components and the end-use, and the two products were commercially recognised as different products. Hence, the cold-rolled products manufactured by the new unit being different from the hot-rolled product manufactured by the old unit, the appellants were entitled to exemption of sales tax as provided under the industrial policy. On that score, he had approved issuance of the certificate. However, the Commissioner of Commercial Taxes, Jharkhand initiated a suo motu revision under Section 46(4) of the 1981 Act and placing reliance on Telangana Steel Industries v. State of A.P.[1] held that the two products must be treated as the same commodity and the products not being different commodities, the benefit of exemption was not available.

3. Being aggrieved by the order passed by the Commissioner, the 1st respondent filed a writ petition before the High Court of Jharkhand which ultimately remanded the matter to the competent authority to examine whether HR product and CR product manufactured by the two units of the company are one and the same or two different products.

4. The aforesaid order came to be assailed before this Court in Tata Iron & Steel Co. Ltd. v. State of Jharkhand and others[2]. The Court, taking note of various aspects and the submissions raised at

the bar, held as follows:-

> "20. We are unable to accept this argument either. First of all, as noticed above, it is not the case of the State that the product manufactured by the appellant in its new unit is not CRM. It is not the case of the State that the existing unit either by its machinery or by its process is capable of making HRM and not CRM or is capable of manufacturing both. Of course, if such an issue were to be raised the burden would have been on the appellant to establish the same. When such an issue is not raised it is not necessary for the appellant to establish that fact by any such intrinsic evidence. The material produced before the Joint Commissioner was in our opinion sufficient to decide whether the product manufactured by the appellant is CRM or not and the said Joint Commissioner having given a positive finding and that finding having not been interfered with by the Commissioner, we think the High Court erred in remanding the matter for fresh inquiry.
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> 21. It is true that normally as against an order of remand this Court hesitates to interfere since there is always another opportunity for an aggrieved party to establish its case. But in this case we should notice that the decision to establish an industrial unit was initiated by the appellant as far back as in the year 1997. Based on a promise made in the industrial policy of the State of Bihar, at every stage the appellants tried to verify and confirm whether they are entitled to the benefit of exemption or not and they were assured of that exemption. It is based on these assurances that the appellant invested a huge sum of money which according to the appellant is to the tune of Rs 2000 crores but the State says it may be to the tune of Rs 1400 crores. Whatever may be the figure, the fact still remains that the appellants have invested huge sums of money in installing its new industrial unit. At every stage of the construction, progress and installation of the machineries, the Government/authorities concerned were informed and at no point of time it was suspected that the new unit was going to manufacture HRM. The process of manufacturing HRM and CRM as could be seen from the experts' opinion is totally different and the material on record also shows that the plant design for a new unit is for the purpose of manufacturing CRM. These factors coupled with the fact that at no stage of the proceedings which culminated in the judgment of the High Court, the respondent State had questioned this fact except for the technical ground taken by the Commissioner which is found to be erroneous, we find the ends of justice would not be served by remanding the matter for further inquiry."

5. After so stating, this Court allowed the appeal and set aside the order of the High Court and restored the proposal made by the Joint Commissioner for grant of exemption certificate to the company and also the exemption certificate granted subsequently.

6. In pursuance of the aforesaid judgment, the 1st respondent company availed the benefit of exemption. As the facts would unveil, on 01.04.2006, Jharkhand Value Added Tax Act, 2005 (for brevity, "JVAT Act") came into force. Prior to that, through a notification SO no. 202 dated

30.03.2006 issued under Section 7(3) of the 1981 Act, the State of Jharkhand had withdrawn notification nos. 478 and 479 dated 22.01.1995 and SO nos. 57 and 58 dated 02.03.2000 with immediate effect, as a result of which the facility of exemption from payment of sales tax on the purchase of raw materials and also facility of exemption of sales tax on its finished products was withdrawn. On 30.03.2006, a notification bearing SO no. 202 under Section 8(5)(a) of the Central Sales Tax Act, 1956 was issued withdrawing notification no. 481 dated 22.12.1995.

7. At this juncture, it is relevant to refer to Section 95(3) (ii) of the JVAT Act which reads as under:-

> "95. Transitional Provisions – (3)(ii) Where a registered dealer was enjoying the facility of exemption for payment of tax extended to him under the provisions of adopted Bihar Finance Act, 1981 for his having established new industrial unit in the State or undertaken expansion, modernization or diversification in such industrial units immediately before the appointed day, may be allowed to convert the facility of exemption from payment of tax under the Act into getting the facility of deferment of payment of tax for the un-expired period or percentage of value of fixed asset as determined, as might have been allowed to such dealer under that Act, by a notification published in Official Gazette by the State Government."

8. Rule 64 of the Jharkhand Value Added Tax Rules, 2006 (for short "the Rules") deals with deferment. The said rule reads as under:-

> "64. Deferment.-(1) (a) All such Industrial units, which were availing the benefit of deferment of tax under the provisions of the Repealed Act and notifications issued there-under, immediately before the Appointed Day, and who are continued to be so eligible on such Appointed Day under the Act, may be allowed to continue the benefit of such deferment of payment of tax, for the balance un-expired period or un-availed percentage of gross value of fixed assets, provided such Industrial units file an application in Form JVAT 121 for grant of fresh eligibility Certificate, for the balance un-expired period or un-availed percentage of gross value of fixed assets, before the In-charge of the Circle, in which such unit is registered.
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> (b) All the procedure and provisions issued for availing deferment in the Repealed Act shall continue to be in operation and shall be deemed to have been adopted for the purpose of the Act.
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> (c) The In-charge of Circle, on receipt of such application mentioned in sub-rule (a) shall issue a revised eligibility certificate, indicating therein the balance un-expired period or un-availed percentage of gross value of fixed assets.

Provided such Industrial Unit shall file an application mentioned in sub-rule (a) within a period of fifteen days from the date, on which the Act comes into operation.

Provided further the In-charge of the circle, shall issue a revised eligibility certificate, for the remaining un-expired period within fifteen days, from receipt of such application.

(2) All such industrial units, which were availing the benefit of exemption from payment of tax on the sales of their finished products, granted under clause (b) of sub-section (3) of Section 7 of the Repealed Act, and who have not availed of their full entitlement as on Appointed Day, may be allowed to opt for deferment of payment of tax for the balance unexpired period or unveiled percentage of value of fixed assets as determined, whichever is earlier, in accordance with sub-section (3)(ii) of Section 95 of the Act.

Provided no dealer eligible for deferment under sub-rule (2), shall be allowed to defer his tax liability under the Act, unless he applies to the concerned Registering Authority of the Circle in Form JVAT 121, and upon receipt of such application, the concerned Registering Authority of the circle shall issue a certificate of eligibility in Form JVAT 408. Provided further such deferment as mentioned in sub-rule (2) shall be allowed in accordance with the notification issued for this purpose by the State Government in accordance with the provisions of sub-section (3)(ii) of Section 95 of the Act.

Provided also that, if such notification is issued by the State Government, the Industrial Unit opting to changeover to deferment the tax for the remaining unexpired period or unveiled percentage of value of fixed assets, shall apply within fifteen days of publication of such notification before the In-charge of the circle in which such unit is registered, and thereafter the In-charge of the Circle shall issue revised eligibility certificate for the balance unexpired period or unveiled percentage of value of fixed assets, after making such enquiry as he may deem fit & proper."

9. In pursuance of the statutory provision and the rules framed thereunder, the 1st respondent on April 15, 2006 submitted an application for registration under deferment of payment of tax. In the said application it has been stated thus:-

> "With the enactment of "The Jharkhand Value Added Tax Act, 2005", effective from 01.04.2006, exemptions have been converted to the deferment of payment of tax. We expressed our strong protest for withdrawing the said exemption of Tata Steel and replaced by deferment of payment of Tax provision. We also pray you to review the provision of the said deferment of payment of tax and allow us to continue availing the existing Sales Tax exemption on purchase of raw materials and other goods for production of CR products as well as on selling the CR Products as per the Bihar Industrial Policy, 1995 and the Notification made thereunder till 31st July, 2008.
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> In pursuance to the VAT Act and Rules, we have to file the application by 15th April, 2006 for converting the exemption to deferment and we are applying for the same under protest, as per the enclosed prescribed format JVAT 121." The said application seeking deferment of tax was rejected vide order dated 05.05.2006.

10. Though the 1st respondent filed the said application, it moved the High Court in W.P.(T) No. 2664 of 2006 challenging the constitutional validity of Section 95(3)(ii) and Section 96(3) of the JVAT Act. It also challenged the withdrawal of the notification and asserted that the company was entitled to get the benefit of exemption that had already been granted and that there was no justification for withdrawal of the same. The Division Bench of the High Court took up the said petition along with others and came to hold thus:-

> "55. After holding that the principle of promissory estoppels is enforceable in the present case, the question arises what relief the petitioners were entitled to. As observed by us, even if the impugned notifications had not been issued, the exemption notifications were otherwise to die in view of Section 96(3) of the VAT Act and the petitioners were not entitled to the benefit of exemption thereafter. We have declined to strike down the provisions of VAT Act, including Section 96(3) of the VAT Act. Therefore, we are unable to uphold the exemption benefits to the petitioners on account of the provisions of Section 96(3) of the VAT Act. However, the State cannot justify the issuance of the impugned notifications in view of our findings on various aspects, upholding the enforceability of doctrine of promissory/equitable estoppel when it is intended to even deny legitimate tax deferment benefit under Sec. 95(3) of the VAT Act. We, therefore, quash the impugned notifications S.Os. 201 and 202 both dated 30th March, 2006 as also order dated 5th May, 2006 rejecting claim for deferment of tax under Section 95(3) of VAT Act and as a natural corollary the petitioners will be and are entitled to the benefit of deferment of tax in terms of Section 95(3) of the VAT Act. We, thus, allow these writ petitions and direct the respondent-State to allow the benefit of deferment of tax to the petitioners for the remaining period under 1995 Industrial Policy read with the notifications S.Os. 478,479 and 481 all dated 22nd December, 1995 and S.Os. 57 and 58 both dated 2nd March, 2000, in accordance with the provisions of Section 95(3) of the VAT Act." The aforesaid order is the subject matter of assail in this civil appeal by special leave.

11. We have heard Mr. Ajit Kumar Sinha, learned senior counsel for the appellants and Mr. Dushyant A. Dave, learned senior counsel for the 1st respondent.

12. At the very outset, it is necessary to state that the 1st respondent had enjoyed the benefit of exemption from payment of sales tax on cold rolling mills products w.e.f. 01.08.2000 to 31.03.2006. Initially, the exemption was granted from 01.08.2000 to 31.07.2008. It is not in dispute that the 1st respondent had applied for conversion from exemption of tax to deferment of tax for the remaining period i.e. 01.04.2006 to 31.07.2008. The High Court, as is manifest, while quashing the notification nos. 201 and 202 had directed the State to grant deferment of tax to the 1st respondent under Section 95(3) (ii) of the JVAT Act. It is pertinent to mention here as exemption was claimed and not granted, the 1st respondent had preferred an appeal by special leave but the same has already been disposed of. It has been fairly stated at the Bar that the issue that is seminal to the present lis is benefit of deferment and the period of repayment.

13. When the special leave petition was listed on 04.05.2007, the following interim order was passed:-

> "Till the hearing and final disposal of the matter the assessee will open a separate account and the tax which is being deferred from today will be shown in that account which will be subject to the result of the petition."

14. It is the admitted position that the assessee had collected the tax from the consumers for the period 01.04.2006 to 31.07.2008 and stopped collecting tax after 31.07.2008. It is pertinent to note here that on 12.07.2013, in IA No. 1 of 2013, the following order came to be passed:-

> "After hearing learned counsel for the parties to the lis, we are of the opinion that the respondent no.1 herein should be directed to pay a sum of Rs.25 crores each in six monthly instalments till the entire amount of Rs.186.70 crores is paid to the appellant-applicant, excluding the amount of Rs.20 crores already paid to the appellant-applicant. The first instalment of Rs.25 crores shall be paid by 31.8.2013."
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> 15. We have been appraised at the Bar that the said amount has been paid.

We may repeat at the cost of repetition that the issue of exemption is not alive and it has been fairly accepted by Mr. Dave, learned senior counsel for the 1st respondent. The singular issue that arises for consideration is the interpretation of the deferment policy in the context of provisions enumerated under the JVAT Act. Section 95(3) (ii) envisages that a registered dealer who was enjoying the benefit of exemption of tax is allowed to convert the facility of exemption from payment of tax under the JVAT Act into the facility of deferment of payment of tax for the unexpired period. The assessee-company has availed the deferment and paid the amount of tax. The gravamen of the grievance pertains to the period within which the amount was liable to be paid. Submission of Mr. Sinha, learned senior counsel appearing for the State is that the deferment of tax has to be computed in such a manner so that the period of thirteen years as provided in the notification is calculated from the year 2000 ending with the year 2013. In essence, his argument is, as the assessee had failed to make the repayment of deferred tax within the prescribed period, the assessee is obligated to pay the interest for the delayed period.

16. The aforesaid being the fulcrum of cavil, we are obliged to refer to the relevant paragraphs of SO No. 480 dated 22.12.1995. They read as follows:-

> "S.O. No. 480, dated 22-12-1995:- In exercise of powers conferred by Section 23A of the Bihar Finance Act, 1981(Bihar Act No. 5 of 1981) Part I, the Governor of Bihar on being satisfied that it is necessary to do so in the interest of industrial growth, is pleased to permit those new units which started production between 01-09-1995 to 31-08-2000 and which have the registration certificate issued from the prescribed authority and been given eligibility certificate for this purpose, are allowed to defer the payable sales tax on the sale of manufactured finished goods for a prescribed period under the following terms and conditions:

x x x x x

5. Repayment of deferred tax amount by industrial units:-

Repayment of deferred tax amount by industrial units:-

(1) The repayment of deferred tax amount shall have to be done after the completion of eligibility period of deferment or the prescribed percentage limit of fixed capital investment, whichever reaches earlier. Repayment of total deferred amount shall have to be done in ten equal six-monthly instalments in such a manner so as to be completed within 13 years from the date of start of deferment.

(2) In case of non-payment of the deferred amount after the expiry of the prescribed period as stated in part (1), a simple interest at the rate of 2.5 percent per month on repayable amount shall be payable till the month in which payment is made. For the purpose of this part, a part of month will be treated as full month.

(3) If any unit defaults in repayment of the deferred amount within the prescribed period, then for the recovery of due amount alongwith interest as stated in part(2) above, all the suitable provisions of the Bihar Finance Act, 1981 Part I related to recovery of tax, realization of dues and imposition of penalty alongwith prosecution under Section 49 shall be applicable without adversely affecting other actions taken under the Act." [Emphasis added]

17. Relying on the language employed in the notification, it is submitted by Mr. Sinha, learned senior counsel for the appellant that deferment of tax as contemplated in the said notification has to commence from 31.08.2000 for the purpose of computation of 13 years. The words used in para 5(1) "from the date of start of deferment" are not to be interpreted to convey to be determinative on the foundation of individual case of deferment but they have to be understood that the grant of benefit of deferment is associated with the repayment of deferred tax and in that context it has to be so done that the period of repayment is completed within 13 years, that is, 31.08.2013.

18. Refuting the said submission, it is canvassed by Mr. Dave, learned senior counsel appearing for the assessee that the date of start of deferment has to be the date when deferment commences and the span of 13 years has to be computed from that date. On that basis, it is urged by him that the period of repayment will come to end only after expiry of 13 years from 2006, the year in which the deferment of the tax commenced as per the order of the High Court. Learned senior counsel has emphasised that when the language employed in the notification is absolutely plain and clear, the meaning has to be attributed to the clear words for the words employed therein. For the said purpose, he has placed reliance on the authority in Hansraj Gordhandas v. H.H. Dave, Assistant Collector of Central Excise & Customs, Surat and Two ors.[3].

19. We have already reproduced the relevant paragraphs of the notification. Regard being had to the language employed therein, we have to appreciate what has been laid down in Hansraj Gordhandas (supra). The passage from which Mr. Dave, learned senior counsel has drawn inspiration reads as

follows:-

> "It was contended on behalf of the respondent that the object of granting exemption was to encourage the formation of cooperative societies which not only produced cotton fabrics but which also consisted of members, not only owning but having actually operated not more than four power-looms during the three years immediately preceding their having joined the society. The policy was that instead of each such member operating his looms on his own, he should combine with others by forming a society which, through the cooperative effort should produce cloth. The intention was that the goods produced for which exemption could be claimed must be goods produced on its own behalf by the society. We are unable to accept the contention put forward on behalf of the respondents as correct. On a true construction of the language of the notifications, dated July 31, 1959 and April 30, 1960 it is clear that all that is required for claiming exemption is that the cotton fabrics must be produced on power-looms owned by the cooperative society. There is no further requirement under the two notifications that the cotton fabrics must be produced by the Co-operative Society on the power-looms "for itself". It is well established that in a taxing statute there is no room for any intendment but regard must be had to the clear meaning of the words. The entire matter is governed wholly by the language of the notification. If the tax-payer is within the plain terms of the exemption it cannot be denied its benefit by calling in aid any supposed intention of the exempting authority. If such intention can be gathered from the construction of the words of the notification or by necessary implication therefrom, the matter is different, but that is not the case here." [Underlining is ours]

20. Thus, the aforesaid decision makes it quite clear that in a taxing statute there is no room for any intendment but regard must be had to the clear meaning of the words. The entire matter is governed wholly by the language of the notification. It has also been held by the Constitution Bench, if the tax-payer is within the plain terms of the exemption, it cannot be denied its benefits by calling in aid any supposed intention of the exempting authority. That apart, it has also been stated therein that if different intention can be gathered from the construction of the words of the notification or by necessary implication therefrom, the matter is different. The larger Bench has not applied the said principle to the case involved therein.

21. In this context, we may recapitulate the words of Lord Reid in Maunsell v. Olins[4] wherein it has been observed as follows:-

> "Then rules of construction are relied on. They are not rules in the ordinary sense of having some binding force. They are our servants not our masters. They are aids to construction, presumptions or pointers. Not infrequently one 'rule' points in one direction, another in a different direction. In each case we must look at all relevant circumstances and decide as a matter of judgment what weight to attach to any particular 'rule'."

22. The said passage has been referred with approval by the Court in Utkal Contractors and Joinery Pvt. Ltd. and others v. State of Orissa and others[5]

23. In M/s Doypack Systems Pvt. Ltd. v. Union of India & others[6] a two- Judge Bench while emphasising on the concept of interpretation opined thus:-

> "58. The words in the statute must, prima facie, be given their ordinary meanings. Where the grammatical construction is clear and manifest and without doubt, that construction ought to prevail unless there are some strong and obvious reasons to the contrary. Nothing has been shown to warrant that literal construction should not be given effect to. See Chandavarkar S.R. Rao v. Ashalata[7] approving 44 Halsbury's Laws of England, 4th Edn., para 856 at page 552, Nokes v. Doncaster Amalgamated Collieries Limited[8]. It must be emphasised that interpretation must be in consonance with the Directive Principles of State Policy in Article 39 (b) and (c) of the Constitution.
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> 59. It has to be reiterated that the object of interpretation of a statute is to discover the intention of the Parliament as expressed in the Act. The dominant purpose in construing a statute is to ascertain the intention of the legislature as expressed in the statute, considering it as a whole and in its context. That intention, and therefore the meaning of the statute, is primarily to be sought in the words used in the statute itself, which must, if they are plain and unambiguous, be applied as they stand. ..." The aforestated principle has been reiterated in Keshavji Ravji and Co. and others vs. Commissioner of Income Tax[9].

24. In this regard, reference to Mahadeo Prasad Bais (Dead) vs. Income- Tax Officer 'A' Ward, Gorakhpur and another[10] would be absolutely seemly. In the said case, it has been held that an interpretation which will result in an anomaly or absurdity should be avoided and where literal construction creates an anomaly, absurdity and discrimination, statute should be liberally construed even slightly straining the language so as to avoid the meaningless anomaly. Emphasis has been laid on the principle that if an interpretation leads to absurdity, it is the duty of the court to avoid the same.

25. In Oxford University Press v. Commissioner of Income Tax[11] Mohapatra, J. has opined that interpretation should serve the intent and purpose of the statutory provision. In that context, the learned Judge has referred to the authority in State of T.N. v. Kodaikanal Motor Union (P) Ltd.[12] wherein this Court after referring to K.P. Varghese v. ITO[13] and Luke v. IRC[14] has observed:-

> "The courts must always seek to find out the intention of the legislature. Though the courts must find out the intention of the statute from the language used, but language more often than not is an imperfect instrument of expression of human thought. As Lord Denning said it would be idle to expect every statutory provision to be drafted with divine prescience and perfect clarity. As Judge Learned Hand said, we must not make a fortress out of dictionary but remember that statutes must have some

> purpose or object, whose imaginative discovery is judicial craftsmanship. We need not always cling to literalness and should seek to endeavour to avoid an unjust or absurd result. We should not make a mockery of legislation. To make sense out of an unhappily worded provision, where the purpose is apparent to the judicial eye 'some' violence to language is permissible."

26. Sabharwal, J. (as His Lordship then was) has observed thus:-

> "... It is well-recognised rule of construction that a statutory provision must be so construed, if possible, that absurdity and mischief may be avoided. It was held that construction suggested on behalf of the Revenue would lead to a wholly unreasonable result which could never have been intended by the legislature. It was said that the literalness in the interpretation of Section 52(2) must be eschewed and the court should try to arrive at an interpretation which avoids the absurdity and the mischief and makes the provision rational, sensible, unless of course, the hands of the court are tied and it cannot find any escape from the tyranny of literal interpretation. It is said that it is now well-settled rule of construction that where the plain literal interpretation of a statutory provision produces a manifestly absurd and unjust result which could never have been intended by the legislature, the court may modify the language used by the legislature or even "do some violence" to it, so as to achieve the obvious intention of the legislature and produce a rational construction. In such a case the court may read into the statutory provision a condition which, though not expressed, is implicit in construing the basic assumption underlying the statutory provision. ..."

27. Keeping in view the aforesaid principle, the language employed in the notification has to be appreciated. Benefit of deferment of tax is granted under certain terms and conditions. One of the terms and conditions pertains to repayment of deferment of tax amount by the industrial unit. The first part of sub-para (1) of para 5 stipulates that the repayment of deferred tax amount shall have to be done after the completion of eligibility period of deferment or the prescribed percentage limit of fixed capital investment, whichever reaches earlier. In the case at hand, the period of exemption has been converted to period of deferment of tax. It is for 8 years. There is no dispute that the assessee had availed the exemption for a period of 6 years and he is entitled to deferment of tax for the rest of the period which commenced in 2006. It is the next part of the said sub-para which requires to be understood. The notification lays a clear postulate that repayment of total deferred amount shall have to be done in ten equal six monthly instalments in such a manner so as to be completed within 13 years from the date of start of deferment. The words "from the date of start of deferment" have to have nexus with the policy stated in the beginning. The policy would apply if the unit has commenced between 01.09.1995 and 31.08.2000; that it has a registration certification from the prescribed authority and that, most importantly, it has been given an eligibility certificate for the said purpose. The policy would come into play only if these conditions are satisfied and then the assessee will be allowed to have the benefit of deferment of sales tax on the sale of manufactured finished goods for a prescribed period. Therefore, the authority has been given the power to lay down the prescribed period for grant of deferment. In the beginning, the 1st respondent was granted

exemption. The concept of exemption is distinct from the concept of deferment of tax. After the JVAT Act came into force, under the statutory provisions, there was no exemption and beneficiaries were entitled to convert to the scheme of deferment. The period remains intact, that is, 8 years. The repayment has to be done in equal six monthly instalments and that period is 5 years. The repayment commences after completion of eligibility period of deferment or the prescribed percentage limit of fixed capital investment, whichever is earlier. The prescribed authority can grant an eligibility certificate but he has to keep in view the terms and conditions stipulated in the notification. The said authority cannot travel beyond the stipulations of the notification. The language employed in the notification conveys that the grant of certificate has to be such that after expiration of the eligibility period, the amount has to be paid back within a span of 5 years but the gap cannot exceed 13 years from the date of start of deferment. The postulate enshrined therein has to be appositely appreciated. It does not flow from the notification that if a benefit is granted for 8 years or for a lesser period, the assessee cannot claim that the repayment has to be completed within 13 years from the date of grant. In the case at hand, the claim of the assessee that the repayment schedule has to continue for a period of 13 years from 2006, for the deferment commenced only in 2006. Such an interpretation not only causes serious violence to the language employed in the notification but if it is allowed to be understood in such a manner, it shall lead to an absurd situation. That apart, the intention can be gathered from the notification that it has to relate back to the date of eligibility with a maximum limit of 13 years. It cannot be construed to mean 13 years from the date of completion of the eligibility period. The repayment schedule is 5 years from the expiry of eligibility period of deferment. The period of 5 years has to be so arranged that it does not go beyond 13 years from the date of deferment. Language employed in para 5(1) has to be understood in this manner to give it an appropriate meaning. Otherwise, the interpretation propounded on behalf of the assessee will lead to an anomalous situation because as regards fixation of schedule of repayment within 5 years from the date of completion of the eligibility period, will become totally otiose and, in a way, irrelevant. Words “from the date of start of deferment” cannot be conferred a meaning in the manner suggested by the learned senior counsel for the assessee. It is a well-known principle of statutory interpretation that if an interpretation leads to absurdity, the same is to be avoided. And we have no hesitation here to say that if the notification is read as a whole, the intention, purpose and working of it is absolutely clear. The ingenious interpretation placed on the words are really beyond the context and, therefore, we are not disposed to accept the same. Thus analysed, the irresistible conclusion is that the repayment schedule has to end on 31.08.2013 within a span of 5 years from the expiration of the eligibility period.

28. Having said that, we may proceed to deal with the imposition of interest and penalty under the JVAT Act. Rule 66 of the Rules provides for payment for breach of the Rules. We may immediately make it clear that the question of levy of penalty as envisaged under Rule 66 of the Rules should not be made applicable to the case at hand. We say so as the present case projects special features. It is submitted by Mr. Sinha, learned senior counsel for the State that the revenue is entitled to 2.5% interest per month as per sub-para 2 of paragraph 5 of the notification. It is argued on behalf of the assessee that it is not a case for levy of interest. Regard being had to the special features of the case and taking note of the fact that the assessee-1st respondent had already deposited the amount in pursuance of the order of this Court and regard being had to the nature of litigation, we direct that the 1st respondent-assessee shall pay 12% interest per annum and the said amount shall be

deposited with the competent authority of the revenue within three months hence.

29. Resultantly, the appeal stands disposed of in above terms. There shall be no order as to costs.

.....J. [Dipak Misra] .....J. [N.V. Ramana] New Delhi;

February 12, 2016

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[1] 1994 Supp. (2) SCC 259
[2] (2004) 7 SCC 242
[3] (1969) 2 SCR 252
[4] (1975) 1 All ER 16, 21, 18
[5] (1987) 3 SCC 279
[6] (1988) 2 SCC 299
[7] (1986) 4 SCC 447, 476
[8] 1940 AC 1014, 1022
[9] (1990) 2 SCC 231
[10] (1991) 4 SCC 560
[11] (2001) 3 SCC 359
[12] (1986) 3 SCC 91
[13] (1981) 4 SCC 173
[14] (1964) 54 ITR 692 : 1963 AC 557 (HL)