SUPREME COURT OF INDIA

(1) State of Karnataka and Others, (2) Assistant Commissioner of Commercial

Taxes and Others
Vs

(1) Balaji Computers and Others, (2) Intent Compu System and Others

Civil Appeal No. 1835 of 2006

(Ashok Bhan and Dalveer Bhandari, JJ)

07.12.2006

JUDGMENT

DALVEER BHANDARI, J.

These appeals are directed against the judgments of the Division Bench of the High Court of Karnataka at Bangalore dated 1.9.2005 passed in Writ Appeal No. 1931 of 2005 and dated 24.10.2005 passed in Writ Appeal No.2383 of 2005.

The controversy in both these appeals is identical, therefore, both the appeals are disposed of by common order. For the sake of convenience, we are referring to the facts of Civil Appeal No.1120 of 2006.

The respondents are registered as dealers under the provisions of the Karnataka Sales Tax Act, 1957 (hereinafter referred to as "the KST Act").

Under Section 6-B of the KST Act, turnover tax is imposed. Section 6-B reads as under:-

"Section 6-B. Levy of Turnover Tax (1) Every registered dealer and every dealer who is liable to get

himself registered under sub- sections (1) and (2) of Section 10 whose total turnover in a year is not less than the turnovers specified in the said sub-sections whether or not the whole or any portion of such turnover is liable to tax under any provisions of this Act, shall be liable to pay tax.

Under Section 8-A of the KST Act, the State Government has given exemption of the tax. Section 8-A reads as under:-

"Section 8-A. Power of State Government to notify exemptions and reductions of tax (1) The State Government may, by notification, make an exemption, or reduction in rate, in respect of any tax payable under this Act.

In pursuance to Section 8-A, the Government of Karnataka issued notification dated 31.3.2001. The said Notification reads as under:-

"Sl.No.834

NOTIFICATION

No.FD 97 CSL 2001(7), No.660, dated 31.03.2001

Karnataka Gazette, Extraordinary, dated 31.03.2001

In exercise of the powers conferred by Section 8-A of the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957), the Government of Karnataka hereby exempts with effect from the First day of April, 2001, the turnover tax payable by a dealer under Section 6-B of the said Act on the turnovers relating to the following goods, namely :

[Exemption has been given to 32 items. Items 8 and 9 relate to computers. We are reproducing both these items. We are in fact concerned with item 9 only]

8. Computer software; works contract of programming and providing of computer software; and leasing of computer software.

9. Computers, computer peripherals, computer consumables and computer cleaning kits falling under Serial Number 20 of Part 'C' of Second Schedule."

The items indicated at Serial No. 20 of Part 'C' of the Second Schedule of the KST Act read as under: "From 01.04.1989 to 31.03.1996

20. Computers, micro-computers, computer peripherals and parts and accessories thereof.

From 01.04.1996 to 31.03.1998, Entry reads thus:-

20. (i) Computers, micro-computers, micro processors, computer peripherals and parts and accessories thereof;

(ii) Computer stationery

From 01.04.1998, the entry reads thus:-

20 (i) Computers of all kinds namely main frame, mini, personal, micro computers and the like and their parts

(ii) Peripherals, that is to say

(a) All kinds of printers and their parts, namely

Dot matrix, ink jet, laser, line, Line matrix and the like

(b) Terminals, scanners, multi Media kits, plotters, modem and their parts."

It would be relevant to mention that the Commissioner of Commercial Taxes, Karnataka issued a clarification dated 15.12.2004 clarifying that parts of computer and parts of computer peripherals were not liable to payment of turnover tax by virtue of exemption notifications issued under Section 8-A of the KST Act. This clarification issued under Section 3-A(2) of the KST Act was withdrawn by the Commissioner of Commercial Taxes, Karnataka on 23.12.2004 which reads as under:

"Proceedings of the Commissioner of Commercial Taxes (Karnataka), Bangalore Under Section 3a(2) of Karnataka Sales Tax Act, 1957

Sub: KST Act, 1957 Clarification under Section 3A(2) regarding RST on "computer parts".

Ref. : 1) Application dated 26.11.2004 of the Vice President, Association for Information Technology, 15/13 Floor, Dickenson Road, Bangalore

2) This office Proceedings vide No.CLR.CR.157/04-05, dated 15.12.2004.

In the application cited above, the respondents association has sought clarification on turnover tax applicable to computer parts.

The matter was examined with reference to Section 3-A(2) of the Karnataka Sales Tax Act, 1957 which empowers the Commissioner of Commercial Taxes to clarify with regard to rate of tax payable under the Act, if he considers it necessary or expedient so to do for the purpose of maintaining uniformity in the work of assessments and collection of revenue. It was considered that the clarification as sought by the petitioner association was within the scope of the aforesaid provision and accordingly a clarification was issued.

However, the matter has now come up for reconsideration in view of the interpretation of the Government Notification No. FD 54 CSL 2002(4) dated 30.03.2002 as given to it by the Accountant General. There is now, therefore a need to re-examine in greater detail the matter with regard to applicability of the said notification to computer parts.

Hence, the following :

CLARIFICATION NO. CLR.CR.157/04-05, DATED 23.12.2004

For the reasons as detailed out in the Preamble, the clarification issued on 15.12.2004 and referred to at (2) above is hereby withdrawn.

Sd/- Ashok Kumar Sharma Commissioner of Commercial Taxes

Copy to:

The Vice President, Association for Information Technology, 15/13 Floor, Dickenson Road , Bangalore."

The Commissioner of Commercial Taxes, Karnataka exercising the powers under Section 3-A of the KST Act issued another circular No.15/2004-05 dated 31.12.2004 directing the Assessing Authorities, Revisional Authorities, Joint Commissioners, Inspecting Authorities, Audit Authorities etc., to levy turnover tax on parts of computer and parts of computer peripherals. The Assessing Authorities exercising the powers under Section 12-A of KST Act issued proposition notices to the dealers proposing to levy turnover tax on parts of computer and parts of computer peripherals for the relevant assessment years concerned.

The respondents challenged the notices issued by the authorities in pursuance of the said notification dated 31.12.2004 under Section 12-A of the KST Act in Writ Petition numbers 5158-5161/2005 as arbitrary and opposed to Article 14 of the Constitution of India and sought for issuance of a

declaration that the Circular No.15/04-05 dated 31.12.2004 issued by the Commissioner of Commercial Taxes in the State of Karnataka as being contrary to law, arbitrary, ultra virus the Notifications dated 18.7.2000, 31.3.2001 and 30.3.2002 and also sought for a direction that turnover tax are exempted on the sales of parts of computer and parts of computer peripherals as per the said Government notifications issued under Section 8-A of the KST Act.

The respondents filed Writ Petition numbers 5158- 5161 of 2005 before the learned Single Judge of the Karnataka High Court who vide order dated 10.2.2005 dismissed the writ petition as not maintainable since the dealers had not exhausted the alternate remedy available to them under the Statute before filing writ petitions under Article 226 of the Constitution. The respondents aggrieved by the order of the learned Single Judge filed a Writ Appeal No. 1931 of 2005 before the Division Bench of the Karnataka High Court. In the meantime, during the pendency of the writ appeal, re-assessment orders were passed by the Assessing Authority confirming the levy of turnover tax on parts of computer and parts of computer peripherals. The Division Bench in the impugned judgment has held that parts of computer and parts of computer peripherals are to be treated as computers and computer peripherals falling under Entry-20 of part 'C" of the Second Schedule of the Karnataka Sales Tax Act by legal fiction and are exempted from levy of turnover tax payable under Section 6-B of the KST Act. The Division Bench quashed the circular instructions issued by the Commissioner of Commercial Taxes of Karnataka dated 31.12.2004.

The Division Bench adjudicated several questions of law in the impugned judgment, but we are confining our judgment to the main controversy in the case regarding liability of the respondents to pay the turnover tax on parts of computer and computer peripherals.

The respondents-assessees submitted before the Division Bench that parts of computer and computer peripherals were exempted from payment of turnover tax by a dealer under Section 6-B of the KST Act. The High Court did not accede to the submission of the appellants that the respondents were not exempted from payment of turnover tax for several reasons.

(1) The definition of 'computer' and 'Peripherals' within its fold, by means of a legal fiction, embraces parts of Computer and Computer peripherals.

(2) Part 'C' of the Second Schedule of the Act sets out various items of goods in respect of which single point tax is leviable on the first or earliest of successive dealers in the State under Section 5(3)(a) of the Act. The Schedule has been further bifurcated into several parts. Under Sl. No. 20 of Part 'C' of the Second Schedule of the Act, computers, peripherals, computer cleaning kits, computer software are the items provided in respect of which tax is leviable under Section 5(3) of the Act. In other words, the Legislature intended to levy sales tax under Section 5(3) of the Act in respect of various types of computers, computer peripherals, computer consumables, computer cleaning kits and computer software.

Section 6-B of the Act provides for levy of turnover tax on every registered dealer and every dealer who is liable to get himself registered under Sections (1) and (2) of Section 10. Sl. No. 20(i) refers

to various types of computers in respect of which tax is leviable. After the words 'Computers of all kinds', the word 'namely' is used setting out the various types of computers like main frame, mini, personal, micro computers and the like. The words 'and the like' are indicative of the fact that various types of computers, similar to main frame, mini, personal and micro computers have been exempted from payment of tax under Section 8A of the KST Act. Immediately after the description of various types of computers, the words 'and the like' and the words 'and their parts' are referred to. The question was whether the words 'and their parts' following the words 'and the like' were to be read conjunctively as contended by the respondents or disjunctively as contended by the appellants and should they be excluded from the definition of computer? It is not proper to read the words 'and their parts' disjunctively. The legislative intention becomes clear when these words are read conjunctively. On proper construction of the Statute, it would be reasonable to take the view, by legal fiction that the legislature, for the purposes of levy of tax under the KST Act wanted parts of computer also to be treated as computers. Similarly, when the appellants in exercise of its powers under Section 8-A of the KST Act exempted computers from payment of tax, the parts of computer are also exempt from payment of tax.

The computers are produced by assembling various parts or configuration. Therefore, for the purpose of levy of turnover tax, if the legislature, by means of legal fiction or definition, intended to treat the parts of computer as computers, in that context the words 'and their parts' occurring immediately after specific reference to 'main frame, mini, personal micro computers and the like' should be understood that the parts of computers were also treated as computers by legislative intendment.

For proper construction, we deem it necessary to explain how the word 'namely' has been described in various dictionaries.

In Black's Law Dictionary, Fifth Edition, the word 'namely' has been stated as "a difference, in grammatical sense, in strictness exists between the words namely and including. Namely imports interpretation, i.e., indicates what is included in the previous term; but including imports addition, i.e., indicates something not included".

In Webster's Encyclopedic Unabridged Dictionary of the English Language, the word 'namely' has been stated as 'that is to say, explicitly, specifically to wit; on item of legislation, namely, certain bail."

In Chambers 21st Century Dictionary the word 'namely' has been stated as "used to introduce an expansion or explanation of what has just been mentioned".

In World Book Dictionary, the word 'namely' has been stated as 'that is to say to wit'. Therefore, the word 'namely', ordinarily imports of what is comprised in the preceding clause; and it ordinarily serves of equating what follows with the clause described before.

This Court in State of Bombay v. Bombay Education Society reported in , had an occasion to

examine the meaning of the words 'that is to say' which have been described as 'explanatory or illustrative words and not words either of amplification or limitation'.

In this case, while considering what is the meaning that is required to be given to the word 'namely' employed in the circular issued by the State of Bombay directing that no primary or secondary school shall from the date of the order, admit to a class where English is used as a medium of instruction any pupil other than a pupil belonging to a section of citizens the language of which is English wherein it is explained by stating 'namely' Anglo- Indians and citizens of non-Asiatic descent has observed that ordinarily the word 'namely' imports enumeration of what is comprised in the preceding clause and it ordinarily serves the purpose of equating what follows with the clause described before. Further, the word 'namely' has also been explained in the said decision and also in the Oxford English Dictionary as 'that is to say'. In this connection, it is useful to refer to the observation made by the Court in paragraph 12 of the judgment which reads as under:

"12. Re(1): As already indicated Barnes High School is a recognized Anglo-Indian School which has all along been imparting education through the medium of English. It receives aid out of State funds. The daughter of Major Pinto and the son of Dr. Gujar are citizens of India and they claim admission to Barnes High School in exercise of the fundamental right said to have been guaranteed to them by Article 29(2) of the Constitution. The School has declined to admit either of them in view of the circular order of the State of Bombay. The provisions of the circular order, issued by the State of Bombay on the 6th January, 1954, have already been summarized above."

The operative portion of the order, set forth in Clause 5 thereof, clearly forbids all primary or secondary schools, where English is used as a medium of instruction to admit to any class any pupil other than a pupil belonging to a section of citizens, the language of which is English namely Anglo-Indians and citizens of Non-Asiatic descent. The learned Attorney General contended that this clause did not limit admission only to Anglo-Indians and citizens of non-Asiatic descent, but permitted admission of pupils belonging to any other section of citizens the language of which is English.

The learned counsel for the respondents pointed out that one of the meanings of the word 'namely', as given in the Oxford English Dictionary, Volume VII P.16 is 'that is to say' and he then referred to the decision of the Federal Court in Bhola Prasad v. Emperor reported in 1942 AIR(FC) 17, where it was stated that the words 'that is to say' were explanatory or illustrative words and not words either of amplification or limitation. It should, however, be remembered that those observations were made in connection with one of the Legislative heads namely Entry No. 31 of the Provincial Legislative List. The fundamental proposition enunciated in the case of The Queen v. Burah reported in 1878 (3) AC 889 (B) was that the Indian Legislatures within their own sphere had plenary powers of legislation as large and of the same nature as those of Parliament itself.

In that view of the matter, every Entry in the legislative list had to be given the widest connotation and it was in that context that the words 'that is to say' relied upon by the learned Attorney General were interpreted in that way by the Federal Court. To do otherwise would have been to cut down the generality of the legislative head itself. The same reason cannot apply to the construction of the

Government Order in the present case for the consideration that applied in the case before the Federal Court had no application. Ordinarily, the word 'namely' imports enumeration of what is comprised in the preceding clause. In other words, it ordinarily serves the purpose of equating what follows with clause described before.

In Stroud's Judicial Dictionary (4th Edition, Volume 5), it is observed that the words 'that is to say' are employed and to make clear and fix the meaning of what is to be explained or defined; and such words are not used, as a rule, to amplify a meaning while removing a possible doubt for which purpose the word 'includes' is generally employed.

In Stroud's Judicial Dictionary (4th Edition, Volume 5, at page 2753), it is observed:

"That Is To Say (1) "That is to say" is the commencement of an ancillary clause which explains the meaning of the principal clause. It has the following properties: (1) it must not be contrary to the principal clause; (2) it must neither increase nor diminish it; (3) but where the principal clause is general in terms it may restrict it."

The quotation, given above, from Stroud's Judicial Dictionary shows that, ordinarily, the expression 'That is to say' is employed to make clear and fix the meaning of what is to be explained or defined. Such words are not used, as a rule, to amplify a meaning while removing a possible doubt for which purpose the word 'includes' is generally employed. In view of the ratio of various judgments and on plain construction of the Statute, it is clear that parts of computer, by legal fiction, need to be treated as computers under Sl. No. 20(i) of Part 'C' of the Second Schedule of the Act. When parts of computer and computer peripherals are treated as computers and computer peripherals, there cannot be any doubt that parts of computer and computer peripherals are not to be treated as computer and computer peripherals, whether in the light of the language employed in the exemption Notifications referred to in the preceding paragraphs of the judgment are parts of computer and computer peripherals are also exempted from levy of turnover tax.

The reading of exemption Notifications, in that context, makes it clear that it intended to give exemption to all the items of computers and their parts. This is clear from the fact that the Notifications grant exemption to computers, computer peripherals, computer consumables and computer cleaning kits falling under Sl. No. 20 of Part 'C' of the Second Schedule of the Act. The same is the language employed in the Notifications. The exemption notifications intended to exempt all the items referred to in Sl. No. 20 of Part 'C' of the Second Schedule and the intention was not to grant exemption for all items referred to in Sl. No. 20 of Part 'C' of the Second Schedule of the Act. The Court observed that if the Government intended to exclude parts of computer and computer peripherals, the same would have been made clear by stating computers and computer peripherals falling under Sl. No. 20 of Part 'C' of the Second Schedule. The construction of the Statute and the intention of the framers of the Legislature also lead to a clear conclusion that parts of the computer and computers peripherals are also exempted from the levy of turnover tax.

In Krishi Utpadan Mandi Samiti, Kanpur v. Ganga Dal Mill and Co. , the question that came up for consideration before this Court was whether legume, whole grain, when notified as a 'specified

agricultural produce' within the meaning of the expression of Section 2(t) of the U. P. Krishi Utpadan Mandi Adhiniyam Act, 1964 would also comprehend its split folds of parts, commercially called 'dal' so as to enable the Market Committee to levy market fee under Section 17 of the Mandi Adhiniyuam Act on the transaction of sale of 'dal' of legumes specified in the schedule to the Mandi Adhimiyam Act. The Court, on consideration of the definition of 'agriculture produce', took the view that it would mean not only those items of produce of agriculture as specified in the schedule, but will also include the admixture of two or more of such items as also any such items in its processed form.

In Prestige Engineering (India) Ltd v. Collector of Central Excise, Meerut , the question that came up for consideration before this Court was, as to what is the true meaning and purport of Notification issued by the Central Government under Rule 8(1) of the Central Excise Rules, 1944 which exempted the goods falling under Item 68 of the First Schedule to the Central Excises and Salt Act, 1944 manufactured in a factory as a job work from exemption of duty of excise leviable thereon as is in excess of the duty calculated on the basis of the amount charged for the job work. While considering the said question, after referring to the cleavage of opinion expressed by various High Courts and various benches of Customs, Excise and Gold Appellate Tribunal, this Court held that once an expression is defined in the Act, that expression wherever it occurs in the Act, Rules or Notifications issued thereunder, should be understood in the same sense.

In the case of Steel Authority of India Ltd. v. Collector of Central Excise, Bolpur, West Bengal reported in 4, this Court took the view, while considering the question as to what is the meaning that is required to be given to the exemption notification issued under Rule 8(1) of the Central Excise Rules, 1944 by the Central Government exempting levy of excise duty in respect of "tar", falling under Item 11(5) of the First Schedule to the Central Excises and Salt Act, 1944, that the meaning of "tar" has to be gathered from the tariff description given in Clause 5 of Tariff Item No. 11 and, therefore, "tar" will include everything which has been included in the extended definition. It is useful to refer to the observations made at paragraph 4 of the judgment, which read as under:

"4. The Exemption Notification exempts "tar" falling under Item 11 of the First Schedule to the Central Excises and Salt Act, 1944. The meaning of "tar" has to be gathered from the Tariff description given in clause (2) of Tariff Item 11. An inclusive definition has been given to "tar" which includes "partially distilled tars and blends of pitch will creosote oils or with other coal tar distillation products". Therefore, "tar" will include everything which has been included in the extended definition. Having regard to the wording of the notification and wording of the Tariff Item 11, we have no doubt that the product of the assessee (PCM) qualifies for the benefit of the exemption notification."

The principle enunciated by this Court in the decisions referred to above, it is clear that the language employed in the exemption Notifications and items in respect of which exemption had been given, had to be understood in the context in which exemption Notifications came to be issued. In case there is any doubt that if the language employed in exemption Notification admits of two views and is not clear and ambiguous, the Division Bench in the impugned judgment aptly observed, the view which is beneficial to the assessee, will have to be taken.

In the case of Poulose and Mathen v. Collector of Central Excise reported in 5, wherein this Court has taken the view that where two opinions are possible, the assessee should be given the benefit of doubt, and that opinion which is in his favour should be given effect to. It is useful to refer to the observation made at paragraph 15 of the judgment, which reads as under:

"One aspect deserves to be noticed in this context. The earlier Tariff Advice No. 83 of 1981 on the basis of which Trade Notice No. 220 1981 was issued by the Collector of Central Excise and Customs is binding on the department. It should be given effect to. There is no material on record to show that this has been rescinded or departed from, and even so, to what extent. Even assuming that the later Tariff Advice No. 6 of 1985 has taken a different view - about which there is no positive material the facts point out that the concerned department itself was having considerable doubts about the matter. The position was not free from the doubt. It was far from clear. In such a case, where two opinions are possible, the assessee should be given the benefit of doubt and that opinion which is in its favour should be given effect to."

In the instant case, computer, computer peripherals, computer consumables, computer cleaning kits and computer software are exempted from levy of turnover tax. Under these circumstances, even assuming for the sake of argument that the exemption Notifications and circulars do not clearly specify as to whether they are exempted from turnover tax, it is not possible to take the view in the background in which exemption Notifications came to be issued that the State would have picked up only computer parts and parts of computer peripherals for levy of tax. Obviously, the intention of the State in granting exemption is to promote Information Technology industry in the State by attracting a large number of investors into the State and setting up of Information Technology industries and provide job opportunities to a large number of youth as aptly observed in the impugned judgment. When that being the object of exemption Notifications issued under Section 8-A of the Act and various items referred to in Sl. No. 20 of Part 'C' of the Second Schedule have been granted exemption even if it is assumed that the things are not made clear in the exemption Notifications, it is fair and reasonable to place the construction which is beneficial to the assessee by exempting levy of tax on parts of computer and computer peripherals.

In the instant case, all the Assessing Authorities except one have taken the view ever since the year 1997- 98 that parts of computer and computer peripherals are exempted from levy of tax. Further, the revisional authorities have also not exercised the suo moto power conferred on them under Sections 21 and 22-A(2) of the Act thereby impliedly approving the decisions of the Assessing Authorities. All these indicate that the Assessing/Revisional Authorities and the Commissioner, till the objection was raised by the Deputy Accountant General, have understood that the Notification exempted parts of computer and computer peripherals from levy of turnover tax under Section 6-B of the Act. The Commissioner also, in the Circular Annexure-H, filed in the High Court, has clarified that parts of computer and computer peripherals are exempted from levy of turnover tax under Section 6-B of the Act. The contemporaneous interpretation placed by the Assessing Authorities and also the clarification issued by the Commissioner supports the view taken by the Court that parts of computer and computer peripherals are exempted from levy of turnover tax.

This Court in the case of K. P. Varghese v. Income Tax Officer, Ernakulam reported in , while

considering the binding nature on the circulars issued by the Central Board of Direct Taxes on the department, has also observed that the Rule of construction by reference to contemporanea expositio is a well established rule for interpreting a statute by reference to exposition it has received from contemporary authorities, though it must give way where a language of the statute is plain and unambiguous. It is useful to refer to the observation made by the Court, which reads as under:

"These two circulars of the Central Board of Direct Taxes are, as we shall presently point out, binding on the Tax Department in administering or executing the provision enacted in sub-section (2), but quite apart from their binding character, they are clearly in the nature of contemporanea expositio furnishing legitimate aid in the construction of sub-section (2). The rule of construction by reference to contemporanea expositio is a well established rule for interpreting a statute by reference to the exposition it has received from contemporary authority, though it must give way where the language of the statute is plain and unambiguous. This rule has been succinctly and felicitously expressed in Crawford on Statutory Construction (1940 Edn.) where it is stated in paragraph 219 that "administrative construction (i.e. contemporaneous construction placed by administrative or executive officers charged with executing a statute) generally should be clearly wrong before it is overturned; such a construction, commonly referred to as practical construction, although non-controlling, is nevertheless entitled to considerable weight; it is highly persuasive."

The validity of this rule was also recognized in Baleshwar Bagarti v. Bhagirathi Dass ILR 35 Cal. 701 where Mookerjee, J. stated the rule in these terms: It is a well-settled principle of interpretation that courts in construing a statute will give much weight to the interpretation put upon it, at the time of its enactment and since, by those whose duty it has been to construe, execute and apply it. and this statement of the rule was quoted with approval by this Court in Deshbandhu Guptu and Co. v. Delhi Stock Exchange Association Ltd. . It is clear from these two circulars that the Central Board of Direct Taxes, which is the highest authority entrusted with the execution of the provisions of the Act, understood sub-section (2) as limited to cases where the consideration for the transfer has been understated by the assessee and this must be regarded as a strong circumstance supporting the construction which we are placing on that sub-section."

Further, in the case of Bangalore Wood Industries v. Asst. Commissioner of Commercial Taxes (Assessment), Hassan and Another reported in 1993 Indlaw KAR 44 (Kar), the Division Bench of the High Court, after referring to the observations made by this Court in the case of K. P. Varghese (supra), has observed that 'the understanding of law at the earliest point of time of its enactment cannot be ignored." What applies to the statute, the Division Bench was of the view, must be applied to the contents of the circular also.

It may be relevant to mention that all the assessing authorities in the State excepting one, from the years 1997-98 had taken the view that till the issuance of Circular dated 31st December, 2004, parts of computer and computer peripherals were exempted from levy of turnover tax under Section 6-B of the Act.

The appeals of the appellants are devoid of any merit because of the following reasons:

1. In the impugned judgment, the Division Bench of the High Court was justified in observing that the parts of computer by employing legal fiction need to be treated as computer under Sr. No.20(i) of the Part 'C' of the Second Schedule of the Act;

2. The computer itself is produced by assembling various parts or configuration. When the legislature intended to exempt the computer then by employing the legal fiction it would be appropriate to hold that parts of computer and its peripheral are also exempted from payment of tax;

3. The language employed in the exemption notifications and items in respect of which exemption was granted had to be understood in the context in which exemption notifications were issued;

4. The Rule of Construction by reference to contemporanea expositio is a well established rule for interpreting a statute by reference to the exposition it has received from contemporary authorities. When language of the statute is plain and unambiguous, the method of contemporanea expositio need not be employed;

5. It is well settled that even if it is assumed that the things are not made clear and explicit in the exemption notifications, it is proper and reasonable to place the construction which is beneficial to the assessee by exempting levy of tax on parts of computer and computer peripherals;

6. It is our duty and obligation to properly comprehend legislative intention while constructing the Statute. In the instant case, computer, computer peripherals, computer consumables, computer cleaning kit and computer software are exempted from the levy of tax. To reach the conclusion that the State intended only computer parts and computer peripherals for levy of tax would not be proper in this background; and

7. Plain construction of the statute leads to a clear conclusion that the legislature intended to exempt computer and parts of computer and computer peripherals from levy of turnover tax.

We have carefully considered the rival submissions and decided cases. In our considered view, no interference is called for in the well reasoned impugned judgment of the High Court. Consequently, the appeals filed by the State are dismissed being devoid of any merit.

In the facts and circumstances of the case, we direct the parties to bear their own respective costs.

J