

SUPREME COURT OF INDIA

M/s. G.P. Ceramics Pvt. Ltd.

Vs.

Commissioner, Trade Tax, UP.

C.A.NO. 6709 OF 2008 arising out of SLP (C) No.17118 of 2006

(S.B. Sinha and Cyriac Joseph)

19/11/2008

JUDGMENT

S.B. SINHA, J.

1. Leave granted.

2. Interpretation and/or application of an exemption notification dated 27.7.1991 is in question in this appeal which arises out of a judgment and order dated 10.7.2006 passed by the High Court of Judicature at Allahabad in Trade Tax Revision No.141 of 1999.

3. The admitted fact of the matter is as under: Appellant is a private limited company registered under the Indian Companies Act. It started a new unit on plot Nos.C-28 and C-29, Industrial Area. The Uttar Pradesh State Industrial Development Corporation (UPSIDC) on or about 14.3.1991 and 11.7.1991 allotted plot No.C-28 and C-29, Industrial Area, Orai in the district of Jalaun in favour of

respondent. An agreement for lease was executed in its favour on 18.9.1992 by the UPSIDC for setting up a unit for manufacture of fire bricks and B.P. sets. Appellant commenced production in the said unit on and from 15.9.1992. It was registered as a small scale unit with effect from 29.9.1992. The first sale of the finished product was made on 24.10.1992. It filed an application claiming exemption from payment of trade tax on the turn over of manufactured products in Form 46 before the Sales Tax Authorities on 12.3.1993 said to be within the stipulated period of six months from the date of first sale.

The Sales Tax Authorities, however, asked for a copy of the deed of lease. The application was also returned to the appellant by the said authority on 4.6.1993 purportedly for the purpose of removing to remove the said objection. A copy of the deed of lease was furnished to him only on or about 16.4.1994.

4. The fact that the appellant is entitled to exemption from payment of trade tax is not in dispute. However, whereas according to the appellant it was entitled to such exemption for a period of 10 years from 24.10.1992 to 23.10.2002, the respondents contend that having regard to the fact that a copy of the deed of lease was furnished to him only in 1994, it was entitled to exemption for the period 16.4.1994 to 23.10.2002.

5. Aggrieved by an order dated 21.8.1995 of the Additional Director, Industries, Jhansi Division granting an eligibility certificate in favour of the appellant only in respect of the period from 16.4.1994 to 23.10.2002, a review application was filed thereagainst, which was rejected by an order dated 27.7.1996. Appellant preferred two separate appeals against the aforementioned orders dated 21.8.1995 and 27.7.1996 before the Uttar Pradesh Trade Tax Tribunal, Lucknow which were marked as Appeal No.93 of 1996 and 81 of 1996 respectively. The said appeals were dismissed by the Tribunal by an order dated 19.2.1999.

6. The High Court by reason of the impugned judgment has dismissed the revision application filed by the appellant herein.

7. Appellant is, thus, before us.

8. Mr. Kavin Gulati, learned counsel appearing on behalf of the appellant, would submit that the High Court as also the Tribunal committed a serious error in so far as they failed to construe the provisions of the UP Trade Tax Act and the Rules framed thereunder as also the form in which the application for exemption is required to be filed in their proper perspective as in terms thereof there was no necessity to supply a copy of the deed of lease, as, admittedly, the land in question has been allotted in favour of the appellant by the PUSIDC, a Corporation of the State of Uttar Pradesh.

Alternatively, it was submitted that as the deed of lease was lying with UP State Industrial Development Corporation which is a Financial Corporation owned by the Government of Uttar Pradesh, the appellant could not file the same within the stipulated period and, thus, the authorities must be held to have acted arbitrarily in reducing the period of exemption from ten years to eight years.

9. Mr. Sunil Gupta, learned senior counsel appearing on behalf of the respondent, on the other hand, would contend that from a bare perusal of the provisions of the Act as also the Rules, it would be evident that when an allotment is followed by a lease for a period of more than five years, it is incumbent for the applicant to supply a copy thereof, failing which the application would be treated to be incomplete, the consequence whereof is that eligibility certificate could be granted only from the date when the application became complete in all respects and not from a date prior thereto.

10. The State of Uttar Pradesh enacted UP Trade Tax Act, 1948 (the Act) to provide for the levy of tax on the sales or purchase of goods in Uttar Pradesh.

11. Section 4A of the Act provides for exemption from payment of Trade Tax in certain cases. We may notice the relevant provisions thereof :

"Section 4-A--Exemption from trade tax in certain cases--(1) Notwithstanding anything contained in this Act, where the State Government is of the opinion that it is necessary so to do for increasing the production of any goods or for promoting the development of any industry in the State generally or in any district or parts of district in particular, it may on application or otherwise, in any particular cases or generally, by notification, declare that the turnover of sales in respect of such goods by the manufacturer thereof shall, during such period not exceeding fifteen years from such date on or after the date of starting production as may be specified by the State Government in such notification, which may be the date of the notification or a date prior or subsequent to the date of such notification, and where no date is so specified from the date of first sale by such manufacturer, if such sale takes place within six months from the date of starting production, and in any other case from the date following the expiration of six months from the date of starting production, and subject to such conditions as may be specified, be exempt from trade tax on sale of goods whether wholly or partly or be liable to tax at such reduced rate as it may fix: Provided that in respect of goods manufactured in a new unit having a fixed capital investment of five crore rupees or more or in an existing unit which may make fixed capital investment of five crore rupees or more in expansion, diversification, modernisation and backward integration or in any one of them, within such period not exceeding five years as may be specified in the notification, the exemption from or reduction in the rate of tax may be granted.

(2) It shall be lawful for the State Government to specify in the notification under sub-section (1) that the exemption from, or reduction in the rate of tax, shall be admissible--

(a) ...

(b) in respect of such of those goods only as are manufactured in a new unit, the date of starting production whereof falls on or after the first day of October, 1982; or

XXX XXX XXX

(d) only if the manufacturer furnishes to the assessing authority an Eligibility Certificate granted by such officer, in accordance with such procedure, as may be specified ;

XXX XXX XXX

(5) A manufacturer shall be entitled to the facility of exemption from, or reduction in the rate of tax, notified under sub-section (1)-- (a) if he applies for such facility within six months from the relevant date of commencement of the period of facility referred to in that sub-section or within six months from the date of notification issued under that sub-section or by September 30, 1992, whichever expires later, for the entire period notified under that sub-section;

(b) if he applies for such facility later than the date specified in Clause (a) only for part of the period notified under subsection (1); which shall be computed from the date of the application and not from the relevant date of commencement of the period of facility referred to in sub-section (1) till the end of the period of facility;

(c) in relation to a new unit referred to in Explanation (1), where the conditions specified in Clauses (a) to (d) of the said Explanation (1) are fulfilled on a date later

than the date of commencement of the period of facility notified under subsection (1), then subject to the provisions of Clause (b), only for part of the period, notified under sub-section (1), which shall be computed from the date on which all the conditions referred to in the said Clauses (a) to (d), have been fulfilled or July 20, 1992 whichever is later, till the end of the period of such facility, so however, that a manufacturer who was eligible for such facility under Clause (c) as it stood prior to July 20, 1992 and had applied for the facility prior to the said date, shall be entitled to the facility in accordance with the said Clause (c). (d) in relation to a new unit manufacturing same goods established on or adjacent to the site of an existing factory or workshop by a person who has interest in the existing factory or workshop as proprietor or partner or agent or managing director or promoter director or as holding company or subsidiary company, if the production of the existing

factory or workshop is not less than the base production:

Provided that if the production of the existing factory or workshop falls short of the base production, the turnover of sale of the new unit to the extent of the quantity covered by such short fall from base production shall be liable to tax."

12. Admittedly, the State of Uttar Pradesh in exercise of its rule making power under the Act framed Rules known as Uttar Pradesh Trade Tax Rules, 1948. Chapter V of the said Rules deals with the exemption of dealers under Section 4. Rule 25 of the said Rules reads as under :

"25. Grant of eligibility certificate -

(1) (a) The application for grant of eligibility certificate by a new unit or a unit which has undertaken expansion, diversification, backward integration or modernization shall be submitted in Form No ST-XLVI (in six copies in case of units with fixed capital investment upto rupees five per form lakhs and in eight copies in cases of units with a fixed capital investment exceeding rupees five per form lakhs), to the General manager, District Industries Centre of the District, in which the unit is situated and in the case of unit situated in any Industrial Development Authority Area to the Area Development Officer (industry) of the said Authority.

(b) The General Manager, District Industries centre or Area Development Officer (Industry) of the concerned Industrial Development Authority may require the unit to furnish any additional information within sixty days of the receipt of an intimation in this regard.

(c) If the application is incomplete or does not contain the required information, the unit may be asked to complete the application or furnish the required information within 60 days of the receipt of an intimation in this regard. If the unit fails to complete the application or furnish the required information mentioned in clause (b) within the prescribed time, the date on which the application is completed or the information or the additional information is furnished shall be treated as the date of application of such unit."

13. The form prescribed for filing an application for exemption by the new units is prescribed in Form 46, clause 10 of which reads as under :

"10. Title of land or building-

- (a) Self-owner (Enclose the attested copy of title deed).
- (b) Taken on lease (Enclose the attested copy of registered lease deed).
- (c) allotted by Government or a Corporation (Enclose the attested copy of such allotment letter)

Or a Corporation letter)"A Company owned Or controlled by the Government.

14. The State of Uttar Pradesh issued a notification on or about 27.7.1991 for grant of exemption, inter alia, from payment of tax to new units set up, the relevant provisions whereof read as under :

"2B. The facility of exemption from or reduction in the rate of tax shall be subject to the following conditions in addition to the conditions referred to in section 4-A of the Act.

(i) that the `new unit' is licensed or in respect whereof a letter of intent has been issued, or which is registered, permanently or otherwise, by the appropriate authority in accordance with any law for the time being in force relating to licensing or registration of such units;

(ii) that the new unit is established on land or building or both owned or taken on lease for a period of not less than fifteen years by such unit or allotted to such unit by the State or the Central Government or any Government Company or any Corporation owned or controlled by the Central or the State Government;

(iii) that the exemption from tax or, as the case may be, reduction in the rate of tax shall be admissible only in respect of such goods manufactured by the unit and such by-products and waste products as are mentioned in the eligibility certificate issued to such unit under Section 4- A of the Act;

(iv) that the said unit furnishes to the assessing authority concerned an eligibility certificate granted in this behalf by the General Manager, District Industries Centre, Area Development Officer (Industry) of the concerned Industrial Development Authority, Additional or Joint Director of Industries of the range or Additional or Joint Director, Industries of the concerned Industrial Development Authority, as the case may be."

15. Before we advert to the contentions raised by the learned counsel for the parties we may place on record that the contention of the appellant herein before us is that as the appellant had taken loan from PICUP on the basis of an equitable mortgage created, the deed of lease could not be produced prior to 16.4.1994.

16. Indisputably, the grant of exemption from payment of trade tax for the specified period in favour of owner of a new unit was to be granted on the basis of the eligibility certificate. An eligibility certificate was granted in favour of the appellant by the Additional Director, Industries Jhansi Division, Jhansi for the period 16.4.1994 to 23.10.2002 by an order dated 21.8.1995, inter alia, on the premise that a copy of the deed of lease was filed by the appellant only on 16.4.1994.

17. The sole question which, thus, arises for our consideration is as to whether in a case where land has been allotted in favour of an industrial undertaking which was followed by execution of the deed of lease, supply of a copy of the letter of allotment should satisfy only the requirements of the statutory provisions or a deed of lease was also required to be produced.

18. Section 4-A provides for grant of exemption. Such exemption is to be granted if an application is filed within the period of six months from the date of first sale. If the land in question on which the unit is constructed has been the subject matter of lease, the applicant was required to file a copy thereof. If the first sale takes place within six months from the date of starting production, the benefit of the exemption shall be given from the date of first sale. Clause (d) of sub-section (2) of Section 4-A, however, empowers the State Government to specify in the notification issued under sub-section (1) that the exemption from payment of trade tax would be admissible, inter alia, only if the manufacturer furnishes to the assessing authority an eligibility certificate granted by such officer in accordance with such procedure as may be specified. Clause (a) of sub-section (5) of Section 4-A stipulates that a manufacturer shall be entitled to the facility of exemption for the entire period notified under sub-section (1) only if the application is filed within six months from the relevant date of commencement of the period of facility referred to in sub-section (1) or within six months from the date of notification issued under that sub-section, or by 30th September, 1992 whichever expires later. Clause (c) of

sub-section (5) provides that in relation to a new unit referred to in Explanation (1) where the conditions specified in clauses (a) to (d) of the said Explanation (1) are fulfilled on a date later than the date of commencement of the period of facility notified under sub-section (1), the period for

grant of exemption shall be computed from the date on which all the conditions referred to in the said clauses (a) to (d) of the said Explanation have been fulfilled or July 20, 1992 whichever is later till the end of the period of such facility, so however, that a manufacturer, who was eligible for such facility under clause (c) as it stood prior to July 20, 1992 and had applied for the facility prior to the said date, shall be entitled to the facility in accordance with the said clause (c). We are not concerned with the Explanations appended thereto.

19. We have, however, noticed that Explanation (2) under Section 4-A defines 'new unit' as under :

"'New Unit' after March 31, 1990 means a factory or workshop set-up by a dealer after such date and satisfying the conditions laid down under the Act or Rules made therein. It would include an industrial unit, inter alia, on the site of an existing factory or workshop."

Certain conditions have been appended thereto which exclude the factory or workshop from the purview of the said definition.

20. It is also relevant to note that when an application is filed, the requisite information therefor is to be furnished as provided in clause 10 of Form 46.

21. It is in the aforementioned backdrop, the notification dated 27.7.1991 and, in particular, paragraph 2B thereof is required to be construed. The fact that the appellant was entitled to grant of exemption is not in dispute. It is also not in dispute that a statutory corporation has allotted a land in its favour on which the unit was started. It is furthermore not in dispute that the first sale from the said unit had taken place on 24.10.1992 and application in the prescribed form has been filed on 12.3.1993, i.e., within a period of six months therefrom.

22. Section 4-A of the Act does not provide for any procedure for filing of an application. The procedures are laid down in the Rules. For the purpose of grant of eligibility certificate, the conditions attached thereto, inter alia, are that an application must be filed in the prescribed form. Such an application is required to be filed in eight copies and indisputably the said condition has been complied with.

23. The power of the General Manager to ask for any additional information within a period of sixty days from the date of receipt of intimation in this behalf is also not in dispute. Clause (c) of sub-rule (1) of Rules 25 of the Rules assumes importance as the only bone of contention between the parties is as to whether the additional information required was furnished within the time specified. If the

unit in terms of clause (c) fails to complete the application or fails to furnish the additional information within the prescribed time, the date on which the application is completed or the additional information is furnished shall be treated as the date of application of such unit.

24. There cannot, however, be any doubt that the said Rule has to be read with Section 4-A, particularly, clauses (b) and (d) of sub-section (2) thereof.

25. The incidental question which would arise for our consideration is as to whether if in terms of the Act or the Rules framed there under, the appellant was not required to supply a copy of the deed of lease, failure on his part to supply a copy of the deed of lease would attract clause (c) of sub- rule (1) of Rule 25 or not.

26. The eligibility criteria is contained in the notification. Sub-clause (ii) of Clause 2B of the notification envisages three contingencies, i.e., (i) the unit is established on land or building or both owned by the dealer; or (ii) the unit is established on land or building or both taken on lease for a period of not less than 15 years; or (iii) the unit is established on land or building or both allotted to such unit by the State or the Central Government or any Government company or any Corporation owned or controlled by the Central or the State Government. Indisputably, the plots in question had been allotted by PUSIDC, a State Government Corporation on or about 14.3.1991 and 11.7.1991.

27. We may, for proper appreciation of the respective contentions of the parties, notice the relevant portion of one of the said letters of allotment which reads as under :

"With reference to your application dated 21.2.1991 allotment of land in our industrial area orai at Jaloun we have allotted to you plot No.C- 28 in our industrial Area orai site No.2 at Jaloun in the conditions noted below for setting up an industrial unit to manufacture Fire Brieks.

1. The area of the plot is 3875 sq. mtr. The precise measurement and the area of the land in the plot is as per site plan attached herewith.

2. The date of this letter will be treated as the date of allotment of the above plot in your favour.

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XXX

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5. You will utilize minimum 30% area of the plot by covering it by roof/permanent shed with the specified period as contained in the Licence Agreement/Lease Deed, failing which the allotment of the plot(s) will be cancelled.

6. It will be your sole responsibility to get NOC from UP/CB (UP Pollution Control Board) and if it is not furnished to this Corporation, you will be liable for Action. According to Law and UPSIDC would not be responsible for any of your act for omissions which may be in contravention in the U.P. Pollution Control Board rules environmental laws."

28. It is true that an instrument of lease was entered into on 18.9.1991 whereby a lease for a term of 90 years was executed on 28.10.1991.

29. It is, however, one thing to say that the order of allotment by a statutory corporation was followed by execution of a deed of lease but it is another thing to say that only because an order of allotment is followed by execution of a deed of lease, the documents in regard to both were required to be furnished.

30. The eligibility criteria are laid down in the notification, which, as noticed hereinbefore, provide for three contingencies. They are disjunctive in nature and not conjunctive. It is now a well settled principle of law that a subordinate legislation must be read in the context of the main statutory enactment. It is also well established that when a form is prescribed in terms of the Rules, in case of doubt or dispute, the requirements laid down in the form may also be taken into consideration for proper construction of the provisions of the Rules and consequently the statutory enactment. Paragraph 10 of the Form 46 relates to the title of the land or building. Whereas in the case of lease an attested copy of the registered deed of lease is required to be enclosed along with the application, in the case of allotment by Government or a Corporation owned or controlled by the Government, only enclosure of the attested copy of such allotment letter subserves the purpose. The letter of allotment dated 14.3.1991, inter alia, provides that the said date was to be treated as the date of allotment of the plots referred to therein in favour of the appellant. One of the terms of the said letter of allotment refers to entering into a licence/agreement or a lease deed and also to utilize minimum 30% area of the plot by covering it with the roof or permanent shed.

31. The allotment was made for setting up of an industrial unit for manufacture of fire bricks. Some conditions might have been attached thereto but in the event such conditions are not fulfilled, the order of allotment could have been cancelled. When such conditions are satisfied, indisputably the allotment becomes effective on and from the date of issuance of the letter of allotment.

32. It is now a well established principle of law that whereas eligibility criteria laid down in an

exemption notification are required to be construed strictly, once it is found that the applicant satisfies the same, the exemption notification should be construed liberally. {[See Commissioner, Trade Tax, U.P. v. DSM Group of Industries [(2005) 1 SCC 657 para 26]; Tata Iron & Steel Co. Ltd. V. State of Jharkhand & Ors. [(2005) 4 SCC 272 para 42 to 45]; State Level Committee & Anr. v. Morgardshammar India Ltd. [(1996) 1 SCC 108]; Novopan India Ltd., Hyderabad v. Collector of Central Excise & Customs, Hyderabad [1994 Supp.(3) SCC 606]; A.P. Steel Re-Rolling Mill Ltd. V. State of Kerala & Ors. [(2007) 2 SCC 725]; and Reiz Electrocontrols (P) Ltd. v. Commissioner of Central Excise, Delhi-I [(2006) 6 SCC 213].

33. The learned counsel for the parties, however, have drawn our attention to two decisions of this Court construing Section 4-A of the UP Sales Tax Act itself. We, therefore, think it proper to refer thereto. In State Level Committee & Anr. v. Morgardshammar India Ltd. [(1996) 1 SCC 108], the question which arose for consideration before this Court was construction of Explanation (i) to Section 4-A(2) using both the expressions 'already used' and 'acquired for use' simultaneously to hold that they should not be considered to be carrying the same meaning, stating :

"It must be remembered that no unit has a right to claim exemption from tax as a matter of right. His right is only insofar as it is provided by Section 4- A. While providing for exemption, the Legislature has hedged it with certain conditions. It is not open to the Court to ignore those conditions and extend the exemption.

11. It is suggested by the learned counsel for the respondent that Section 4-A must be literally (sic liberally) construed to further the object underlying it. In case of any ambiguity, it is submitted, the construction favouring the assessee should be adopted. We cannot agree. Section 4-A provides for exemption from tax. It is repeatedly held by this Court that a provision providing for an exemption or an exception, as the case may be, has to be construed strictly."

However, in Commissioner, Trade Tax, U.P. v. DSM Group of Industries [(2005) 1 SCC 657], another Bench of this Court opined that when an application for exemption is filed for an expansion or diversification, Explanation 5 appended to Section 4-A(6) specifying the word 'unit' must receive a liberal construction to include not only a new unit but also a unit which is sought to be expanded, modernized or diversified, stating :

"25. ...As seen above, the term "unit" has the meaning as defined in Section 4-A. As we have already seen, Section 4-A defines the term "unit" to mean an industrial undertaking, which has undertaken expansion, modernisation and diversification. Even under the General Clauses Act, where the context so requires the singular can

include the plural. A plain reading of the notification shows that for "expansion, modernisation and diversification" it is the industrial undertaking which is considered to be the "unit". This is also clear

from the fact that in the notification wherever the words "expansion, modernisation or diversification" are used, there are no qualifying words to the effect "in any one unit". In none of the clauses is there any requirement of the investment being in one unit of the industrial undertaking. Words to the effect "in a particular unit" or "in one unit" are missing. To accept Mr Sunil Gupta's submission would require adding words to a notification which the Government purposely omitted to add.

26. Even otherwise, the purpose of notification being to encourage increased production and to give benefit to industries which have invested rupees fifty crores or more in the State and whose production has thus increased, an interpretation must be given which would extend benefit to such industries. There would be no purpose in denying an industry which has invested rupees fifty crores or more and whose production in the State has as a result increased, the benefit of the exemption granted by this notification merely because the whole of the investment is not in any particular unit. Thus even where the investment is made by the Company in more than one unit, so long as the total investment is rupees fifty crores or more, the benefit of the notification would be available. Such benefit would then be distributed in the manner set out in the schedule depending on where a unit in which expansion, diversification or modernisation has taken place, is situated. Thus, for example, in respect of the units situated in Barabanki and Moradabad, the benefit would be to the extent of 200% of the fixed capital investment in those units, whereas in respect of units in Bijnore the benefit would be to the extent of 150% of the fixed capital investment in that unit. Similarly, the base production and the starting date of production could be in respect of those units. However, it is the Company which has made the investment. It is the Company which is paying the tax. It is the Company which would be getting the benefit of the exemption. The manner in which the Company gets the benefit would be as set out hereinabove."

34. We do not see any conflict in the ratio laid down in the aforementioned two decisions. The question of applying the principle of strict or liberal interpretation would arise only when the plain meaning attached thereto is found to be absurd or anomalous. If a plain meaning given to the provision for the purpose of considering as to whether the applicant had fulfilled the eligibility criteria as laid down in the notification or not is found to be clear, purpose and object the notification seeks to achieve must be given effect to.

35. The State by enacting Section 4-A of the Act and Rule 25 of the Rules intended to encourage setting up of new industries. Such industrial units, however, were required to be set up either on the land owned by the applicant or taken on lease for a period of not less than five years or on the land allotted. However, so far as the land allotted in favour of the applicant by the State or State owned Corporation or statutory Corporation is concerned, no period is required to be fixed under the law. What is required is an allotment of land by issuance of a letter of allotment. Execution of a deed of lease may be a condition for grant of allotment but the grant is not subject to the date of lease or the period specified therein. The statutory rule as also the notification point out a clear distinction between a deed of lease which may be obtained from a private person and the letter of allotment granted by the State or statutory Corporation. The reason for making such a distinction is not far to seek. Whereas in the case of the former, a registered deed of lease is required to be executed if it is

for a period of more than one year, in the latter it is not.

36. An exception has been made as regards allotment of land by the State or a statutory corporation. The exemption is being granted by the State. Eligibility certificate is also to be granted by the Industries Department. Each department is supposed to be in touch with the other department of the State or the statutory corporation. The authorities would be in a position to verify the particulars of the letter of allotment furnished by the applicant from the concerned department or statutory corporation. It was not necessary for the authorities of the Industries Department of the Government of Uttar Pradesh to obtain any additional information. When an additional information is required to be sought for, it must be done when the information furnished by the applicant is not complete or otherwise required. It is not in dispute that the attested copies of the letters of allotment had been furnished. If the same subserved the statutory requirements, we do not see any reason as to why the appellant should not be held to be entitled to grant of exemption for the entire period of ten years beginning from 24.10.1992 to 23.10.2002.

37. It is not a case where the application was incomplete by itself. It was also not a case where having regard to the provisions of the Act, Rules, Notifications as also the information required to be furnished in terms of paragraph 10 of Form 46, any other or further information was necessary to be obtained or furnished. If the appellant, thus, had fulfilled the eligibility criteria for grant of exemption, it had acquired a right in respect thereof and we see no reason why it should have been deprived therefrom. It is in that sense the exemption notification was required to be construed liberally in favour of the appellant. {See State of Orissa & Ors. V. TATA Sponge Iron Ltd. [(2007) (8) SCC 189 para 21].

38. For the reasons aforementioned, the impugned judgment cannot be sustained. It is set aside accordingly. Respondents are directed to extend the benefit of exemption to the appellant for a period of 10 years from 24.10.1992. The appeal is allowed with costs. Counsel's fee assessed at Rs.50,000/-.