SUPREME COURT OF INDIA

CASIO India Co. Pvt. Ltd.

Vs.

State of Haryana

C.A.No.1410 of 2007

(Dipak Misra and Shiva Kirti Singh,JJ.)

29.03.2016

JUDGMENT

Dipak Misra. J.

1. Regard being had to the similitude of the issue in all the appeals, they were heard together and disposed of by a common judgment. As the principal principle that constitutes the bedrock of the decision in the subject matter of assail in Civil Appeal No. 1410 of 2007, we shall advert to the facts exposited therein and also dwell upon the legal issue and, needless to say, that would govern the fate of all the appeals.

2. Presently to the layout of facts in Civil Appeal No. 1410 of 2007. The appellant-company is engaged in the business of manufacture and sale of Radio Pagers having its unit at plot No. 4, Phase-I, Udyog Vihar, Gurgaon, Haryana. It is registered under the provisions of Haryana General Sales Tax Act, 1973 (for short, "the Act"), Haryana General Sales Tax Rules, 1975 (for short, "the Rules") and the Central Sales Tax Act, 1956 (for brevity, "CST Act") In the year 1995-96, the assessee-company after purchase of Radio Pagers from M/s Bharati Telecom Limited was also engaged in inter-state sale of the said Radio Pagers and in course of the said transaction, did not charge any sales tax from the purchasers on the basis of Notification No. SO 89/CA.74/56/S.8/95 dated 04.09.1995 issued under Section 8(5) of the CST Act read with Rule 28A(4)(c) of the Rules. The appellant filed its return and claimed exemption placing reliance on the said notification, but the claim of exemption put forth by the assessee was not accepted by the assessing officer vide assessment order dated October 05, 2001. Being aggrieved by the order of assessment, the appellant preferred an appeal before the Joint Excise and Taxation Commissioner (Appeal), Rohtak Circle, Rohtak who dismissed the appeal vide order dated May 2, 2002.

3. Being dissatisfied with the order passed in appeal, the appellant knocked at the doors of the Sales Tax Tribunal, Chandigarh (for short 'the tribunal') which dismissed the appeal by its order dated September 9, 2002. The dismissal of the appeal by the tribunal compelled the appellant to prefer Writ Petition No. 2346 of 2003, seeking a direction to the tribunal to make a reference to the High Court. The High Court accepting the prayer of the assessee called for

a reference from the tribunal, and the tribunal vide its order dated 14.10.2003 in S.T.M. No. 82 of 2002-03 made a reference to the High Court for its opinion.

4. After stating the case, the tribunal referred the following questions for the opinion of the High Court:-

> "(i) Whether the notification dated 04.09.1995 issued under Section 8(5) of the CST Act is relatable to the exemption of goods or the person selling it?
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> (ii) Whether in view of the notification dated 04.09.1995 issued under Section 8(5) of the CST Act and Rule 28A of the Rules, the inter-state sales of the goods manufactured by an "exempted unit", even by any other dealer, is exempted from the levy of the Central Sales Act?"

5. Before the High Court it was contended by the assessee that the notification dated 04.09.1995 issued by the State Government provides for grant of exemption on the sale of goods manufactured in the State of Haryana by any dealer holding valid exemption certificate under Rule 28 of the Rules and not to the dealer and, therefore, the goods sold by the assessee in the course of inter-state trade were not liable to be taxed. In support of the said proposition, reliance was placed on *International Cotton Corporation (P) Ltd. v. Commercial Tax Officer, Hubli*[1] *, Pine Chemicals Ltd. and others v. Assessing Authority*[2] *and others , Khadi and Village Soap Industries Association and another v. State of Ha.rya.na and others*[3] *, State of Raja.sth.an v. Sarvotam Vegetables Products*[4] and *Commissioner of Sales Tax v. Industrial Coal Enterprises*[5]

6. On behalf of the revenue, it was urged that the notification in question provided for grant of exemption only on the sale of goods manufactured in the State by a dealer holding valid exemption certificate under Rule 28 of the Rules, subject to the condition that such dealer had not charged tax under the CST Act on the sale of goods manufactured by it, and not in respect of the sale of goods by other dealers in the course of inter-state trade. It was the stand of the revenue that the assessee had not been granted exemption certificate under Rule 28A of the Rules and as such, the goods sold by it in course of inter-state trade were not exempted from the tax under the CST Act merely because the same had been purchased from M/s Bharati Telecom Limited which possesses a valid exemption certificate. Reliance was placed on the decision of this Court in *State Level Committee and another v. Morgardhsammar India Ltd*[6].

7. The High Court referred to Section 8(2A) and 5 of the CST Act and Rule 28A(2)(n) and (4)(c) of the Rules and notification dated 04.09.1995; distinguished the authorities cited by the assessee and came to hold that the expression "notional sales tax liability" as used in Rule 28A(2)(n) takes within its fold not only the amount of tax payable on the sales of finished goods of the eligible industrial unit under the Act but also the amount of tax payable under the CST Act on the sales of finished products of the eligible industrial units made in the course of inter-state trade or commerce and branch transfers or consignment sales outside the State of Haryana. Reference was made to clause (c) of sub-rule (4) of Rule 28A of the Rules

to opine that the scope of exemption was extended to the goods manufactured by an eligible industrial unit availing exemption under Rule 28A at all successive stage(s) of sale or purchase subject to the condition that the dealer effecting successive purchase or sale furnishing a certificate in form ST-14A which is required to be obtained from the assessing authority duly filled in and signed by the registered dealer to whom such goods were sold. Thereafter, the High Court analyzed the Rules and in that context stated thus:-

> "A reading of the provisions reproduced above shows that the expression "notional sales tax liability" takes within its fold not only the amount of tax payable on the sales of finished goods of the eligible industrial unit under the State Act, but also the amount of tax payable under the Central Act on the sales of finished products of the eligible industrial unit made in the course of inter-state trade or commerce and branch transfers or consignment sales outside the State of Haryana (Rule 28A (2) (n)). Clause (c) of sub-rule (4) of Rule 28A extends the scope of exemption to the goods manufactured by an eligible industrial unit availing exemption under Rule 28A at all successive stage(s) of sale or purchase subject to the condition that the dealer effecting successive purchase or sale furnishes to the Assessing a certificate in form ST-14A which is required to be obtained from the Assessing Authority duly filled in and signed by the Registered dealer to whom such goods were sold. Sub-rule (6) of Rule 28A lays down the mechanism for grant of exemption/entitlement certificate. Sub-rule (7) envisages renewal of exemption certificate and lays down the procedure for grant of renewal. Section 8(2A) of the Central Act contains a non-obstante clause. It lays down that notwithstanding anything contained in Section 6(1A) or sub-section (1) or clause (b) of sub-Section (2) of Section 8, the tax payable under the Central Act by a dealer on his turnover in so far as the turnover or a part thereof relates to the sale of any goods, the sale or purchase of which is exempted from tax under the State Act or is subjected to tax at a rate lower than 4% shall be nil or shall be calculated at the lower rate. Sub-section (5) of Section 8 also begins with a non-obstante clause. It empowers the State Government to grant exemption from payment of tax or levy of tax at a lower rate on the dealer having his place of business in respect of the sales made by him in the course of inter-State trade or commerce. It also empowers the State Government to direct that no tax shall be payable under the Central Act or tax shall be calculated at lower rates in respect of all sales of goods or classes of goods as may be specified in the notification which are made in the course of inter-State trade or commerce by any dealer having his place of business in the State or class of dealers specified in the notification. Notification dated 4.9.1995 declares that no tax shall be payable under the Central Act w.e.f. 1. 4.1988 on the sale of goods manufactured in the State of Haryana by any dealer holding a valid exemption certificate under Rule 28A of the Rules, provided that such dealer has not charged tax under the Central Act on the sale of goods manufactured by him."

8. After so stating, the High Court referred to the notification dated 04.09.1995 and observed that it was not happily worded and thereafter, it proceeded to hold that the tribunal was correct in following its earlier order for arriving at the conclusion that the notification did not exempt the goods sold in the course of inter-state trade by dealer other than those who held

valid exemption certificate granted under Rule 28A of the Rules. It further ruled that if the State Government wanted to extend the benefit of exemption from payment of tax under the CST Act to the sale of goods effected by a dealer in the course of inter-state trade irrespective of the fact that such dealer did not hold valid exemption certificate under Rule 28A of the Rules, then it would have incorporated the language of Rule 28A(4)(c) of the Rules in the notification and would not have put a rider that such dealer should not have charged tax under the CST Act on the sale of goods manufactured by it.

9. Thus, the ultimate conclusion recorded by the High Court is that successive sales of goods manufactured by dealer holding valid exemption certificate were exempt from payment of sales tax so long as they were inter-state sales but in respect of sale of goods by a dealer not holding exemption certificate under Rule 28A in the course of inter-state trade, the benefit of exemption envisaged under notification dated 04.09.1995 was not available to such dealer. The Division Bench proceeded to clarify that in respect of stages of sale which are exempt from payment of tax under the Act are covered by Rule 28A(4)(c) but notification dated 04.09.1995 was applicable only to sale of goods manufactured by the exempted unit. Being of this view, it answered the reference in favor of the revenue and against the assessee.

10. Mr. Balbir Singh, learned senior counsel appearing for the appellant, has submitted that though the notification was made under the CST Act, it exempts goods as well as manufacture. Learned senior counsel would submit that on a plain reading of the notification, it is demonstrable that the exemption is on the sale of goods and there is no reference to unit or category of dealers for the purpose of extending the exemption. Once the language is clear, submits Mr. Singh, there is no scope of searching for intendment and, in fact, a bare perusal of the notification is sufficient to determine its applicability or non-applicability. To sustain the submission, he has drawn our attention to the authority in *Govt. of A.P & others. v. P. Laxmi Devi*[7] *; Ranbaxy Laboratories Ltd. v. Union of India and others*[8]*; Bansal Wires Industries Ltd. & another v. State of Uttar Pradesh and others*[9] *and Parle Biscuits (P) Ltd. v. State of Bihar & others* [10]. Learned senior counsel has further contended that the High Court has committed an error in noting that in the notification, there is no similar expression as used in Rule 28A(4) of the Rules. According to him, the reasoning given by the High Court is fallacious on two scores, namely, (i) Rule 28A(4)(c) of the Rules exempts all subsequent sales made in the State of Haryana, as one product can be sold any number of times within the State, whereas there can be only one inter-state sale from the State of Haryana, and consequently there is no requirement of any reference to subsequent sale in notification dated 04.09.1995; and (ii) Rule 28A(4)(c) of the Rules provides a mechanism to confirm that goods are manufactured by a person holding exemption certificate in terms of Rule 28A by providing the requirement to furnish a certificate in the form of certificate ST-14A. Section 8(5) of the CST Act mandates the requirement of issuance of Form C by the buying dealer which is to be issued by the sales tax authorities of purchasing State and, therefore, there is no requirement for such mechanism to be provided in the notification. It is highlighted by him that if the interpretation placed by the High Court is accepted, it would tantamount to making exempted goods chargeable to tax and further, the goods manufactured by eligible manufacturer would not remain competitive in spite of exemption being given to such manufacturer unless all subsequent stages including inter-state sales are exempt from

payment of tax. The emphasis is on exemption at subsequent stages including inter-state sale. Mr. Singh has drawn immense inspiration from the proviso to the notification dated 04.09.1995 to bolster the submission that it restrains the eligible manufacturer from charging any tax on its sales as otherwise it would amount to unjust enrichment.

11. Mr. Sanjay Kumar Visen, learned counsel for the respective respondent(s), per contra, while supporting the order passed by the High Court, would submit that benefit of exemption has been granted for promoting new industry in the State and this is in consonance with Rule 28A of the Rules which provides unit holding a valid exemption certificate which sells goods purchased by it in the State without charging any tax and the said Rule also exempts all subsequent intra-state sales as such. Elaborating further, it is urged that notification dated 04.09.1995 issued under sub-section (5) of Section 8 of the CST Act can extend the benefit of tax exemption to only such inter-state sales of goods which are purchased inside the State by a unit holding valid exemption certificate and hence, the exemption from CST Act is subject to the condition that the dealer effecting inter-state sale should hold a valid exemption certificate irrespective of the goods sold in the course of inter-state trade and commerce and purchased by him inside the State. Learned counsel would submit that while interpreting a notification of the present nature, strict interpretation has to be followed as per law laid down by this Court in *NOVOPAN India Ltd., Hyderabad v. Collector of Central Excise*[11] and Customs, Hyderabad .

12. To understand the controversy in proper perspective, it is necessary to refer to Section 8(2A) and 5 of the CST Act.

They read as follows:-

> "(2A) Notwithstanding anything contained in sub-section (1-A) of Section 6 or sub-section
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> (1) or clause (b) of sub-section (2) of this Section, the tax payable under this Act by a dealer on his turnover in so far as the turnover or any part thereof relates to the sale of any goods, the sale or, as the case may be, the purchase of which is, under the sales tax law of the appropriate State, exempt from tax generally or subject to tax generally at a rate which is lower than four percent (whether called a tax or fee or by any other name), shall be nil, or as the case may be, shall be calculated at the lower rate.
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> (5) Notwithstanding anything contained in this Section, the State Government may, if it is satisfied that it is necessary so to do in the public interest, by notification in the official gazette, and subject to such conditions as may be specified therein, direct
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> (a) that no tax under this Act shall be payable by any dealer having his place of business in the State in respect of the sales by him, in the course of inter-state trade or commerce, from any such place of business of any such goods or classes of goods as

may be specified in the notification, or that the tax on such sales shall be calculated at such lower rates than those specified in sub-section (1) or sub-section(2) as may be mentioned in the notification.

(b) That in respect of all sales of goods or sales of such classes of goods as may be specified in the notification, which are made in the course of inter-state trade or commerce, by any dealer having his place of business in the State or by any class of such dealers as may be specified in the notification to any person or to such class of persons as may be specified in the notification, no tax under this Act shall be payable or the tax on such sales shall be calculated at such lower rates than those specified in sub-section(1) or sub-section (2) as may be mentioned in the notification."

The aforesaid provision clearly enables the State Government to exempt the tax payable under the CST Act in public interest by issuing appropriate notification. For the said purpose, the State Government has to be satisfied and is also entitled to impose conditions which have to be specified in the notification.

13. Keeping in view the aforesaid provision and the notification which we shall refer to hereinafter, the factual score is to be appreciated. It is not in dispute that the appellant had sold the goods in question which were manufactured by M/s Bharati Telecom Limited that was holding a valid exemption certificate under Rule 28A of the Rules. The appellant had claimed central sales tax exemption of such goods in terms of notification dated 04.09.1995 by urging that such exemption was in respect of sale of goods which were manufactured by any dealer in the State of Haryana who held a valid exemption certificate. The core controversy pertains to the interpretation of notification dated 04.09.1995 which has been issued by the competent authority in exercise of power under Section 8(5) of the CST Act. It reads as follows:-

"Notification dated 4.9.1995"

"No.S.O.89/CA. 74/56/S.8/95 dated 4.9.1995 - In exercise of the powers conferred by sub-section (5) of Section 8 of the Central Sales Tax Act, 1956 the Governor of Haryana being satisfied that it is necessary so to do in the public interest, hereby directs that no tax under the said Act shall be payable with effect from 1.4.1988, on the sale of goods, manufactured in the State of Haryana by any dealer holding a valid exemption certificate under Rule 28-A of the Haryana General Sales Tax Rules, 1975 during the period of exemption: provided that no tax under the said Act has been charged by such dealer on the sale of goods manufactured by him."

14. The above notification has been issued in exercise of powers conferred by sub-section (5) to Section 8 of the CST Act by the Governor of Haryana in public interest. As per the notification, no tax is payable under the aforesaid Act w.e.f. 1st April, 1988 on sale of goods during the period of exemption that are manufactured in the State of Haryana by any dealer, who holds a valid exemption certificate under Rule 28A of the Rules. Proviso to the said

notification stipulates that the dealers should have also not charged any tax under the Central Sales Tax Act on the sale of goods manufactured by him.

15. As mentioned earlier, sub-section (5) to Section 8 of the CST Act begins with the non-obstante clause and empowers State Governments to issue a notification in the official gazette subject to the condition(s) as may be specified and under clause (a) direct that no tax shall be payable by any dealer having his place of business in the State in respect of sale in the course of inter-state trade or commerce, etc. and under clause (b) in respect of all sales of goods or classes of goods, etc. In this context, Rule 28A is extremely relevant. The said Rule, as per heading relates to class of industries, period and other conditions for exemption/deferment from payment of tax. Sub-rule 1, 2(f), (j), (k), (l), (n) clauses (i), (ii), (iii), (4)(a) and sub-rule 4(2)(c) of Rule 28A are relevant and reproduced below:-

> "Sub-Rule (1): The industries covered under this rule shall not be entitled to any deferment or exemption from payment of tax under any other provisions of these rules. Rule 2(f): 'Eligible industrial unit' means:
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> (i)a new industrial unit or expansion or diversification of the existing unit, which-
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> (I) has obtained certificate of registration under the Act;
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> (II) is not a public sector undertaking where the Central Government held 51 per cent or more shares;
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> 2(j): "eligibility certificate" means a certificate granted in Form ST-72 by the appropriate screening committee to an eligible industrial unit for the purpose of grant of exemption deferment;
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> (k) "exemption certificate" means a certificate granted in Form ST-73 by the Deputy Excise and Taxation Commissioner of the district to the eligible industrial unit holding eligibility certificate which entitles the unit to avail of exemption from the payment of sales or purchase tax or both, as the case may be;
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> (l) "entitlement certificate" a certificate granted in Form ST-72 by the Deputy Excise and Taxation Commissioner of the district to the eligible industrial unit holding eligibility certificate which entitles it to get deferment of sales tax.
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> (n) "notional sales tax liability" means –
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> (i) amount of tax payable on the sales of finished products of the eligible industrial unit under the local sales tax law but for an exemption computed at the maximum rates specified under the local sales tax law as applicable from time to time; and Explanation: The sales made on consignment basis within the State of Haryana or branch transfer within the State of Haryana shall also be deemed to be sales made within the State and liable to tax;

(ii) amount of tax payable under the Central Sales Tax Act, 1956, on the sales of finished products of the eligible industrial unit made in the course of inter-State trade or commerce computed at the rate of tax applicable to such sales as if these were made against certificate in Form C on the basis that the sales are eligible to tax under the said Act.

Explanation: The branch transfers or consignment sales outside the State of Haryana shall be deemed to be sale in the course of inter-State trade or commerce.

Note:- The expression and terms, if any appearing in this rule not defined above shall unless the context otherwise requires carry the same meaning as assigned to them under the Act and rules made there under.

(3) Option - An eligible industrial unit may opt either to avail benefit of tax exemption or deferment. Option once exercised shall be final except that it can be changed once from exemption to deferment for the remaining period and balanced quantum of benefit.

(4)(a) Subject to other provisions of this rule, the benefit of tax exemption or deferment shall be given to an eligible industrial unit holding exemption or entitlement certificate, as the case may be to the extent, for the period, from year to year in various zones from the date of commercial production or from the date of issue of entitlement exemption certificate as may be opted as under.

4(2)(c) The goods manufactured by an eligible industrial unit availing exemption under this rule shall be exempt from the levy of tax at all the successive stage(s) of sale or purchase subject to the condition that the dealer affecting the successive purchase or sale furnishes to the assessing authority a certificate in Form ST-14A to be obtained from the assessing authority as against payment of such sum as may be fixed by the State Government from time to time, duly filled in and signed by the registered dealer by whom such goods were purchased."

16. Sub-rule (1) makes it clear that industries are covered under this rule and the said industries would not be entitled to any deferment or exemption from payment of tax under any other provisions of these rules. The expression 'eligible industrial unit' is defined in clause (f) to sub-rule (2). Similarly, 'eligibility certificate', 'exemption certificate', etc. are defined in clauses (j) and (k) to sub-rule (2). Clause (n) to sub-rule (2) defines the expression 'notional sales tax liability' and clause (ii) states that the amount of tax payable under the CST Act on sales of finished product of eligible industrial unit made in the course of inter-state trade or commerce shall be computed at the rate of tax applicable as if the sales were made against form 'C'. In other words, inter-state trade or commerce of finished products of eligible industrial units will be treated as notional sales tax liability. The reference in this clause is to the eligible industrial unit and sales of finished products made by the said units, which are sold in the course of inter-state trade or commerce.

17. The purport and impact of Rule 28-A is with reference to eligible industrial unit, is not only clear from the definition clauses which define eligibility certificate, exemption certificate, etc. but also from sub-rule (4)(a) which stipulates that the benefit of tax exemption or deferment shall be given to an eligible industrial unit holding exemption or entitlement certificate for the period specified. Clause (c) to sub-rule (4)(2) postulates that goods manufactured by an eligible industrial unit availing of exemption under this Rule shall be exempt from levy of tax on all successive stage/stages of sale or purchase, subject to the dealer affecting the said purchase or sale furnishing a certificate in the form of ST-14A obtained from the assessing authority. This clause has the effect of granting exemption from levy of tax at all successive stages of sale and purchase in intra-state trade or commerce i.e. within the State of Haryana. To put it differently, it extends the benefit granted under clause (n)(ii) which relates to inter-state trade or commerce to intra-state sale or purchase. Such sales may be one or successive and tax at all stages is exempt. The exemption, therefore, is good specific, subject of course to other conditions being satisfied.

18. It is not disputed that on all intra-state sales no tax has been charged as the said transactions were treated as exempt by the tax authorities. However, in the course of inter-state sales, it is submitted by the revenue that the exemption would be limited and available only if the manufacturer i.e. the eligible industrial unit makes sale in inter-state trade or commerce, but if a third party, who had procured the goods from the eligible industrial unit makes inter-state sale, such trade or commerce would not be exempt. The contention of the State suffers from incorrect appreciation and understanding of the purport and objective behind Rule 28A and the notification in question. The basic objective and purpose is to exempt the goods manufactured in the State when they are further transferred in the course of inter-state or intra-state trade or commerce. Therefore, reference is made to the eligible industries and the goods manufactured by the said industries, which are entitled to exemption. The exemption notification refers to the sale of goods manufactured by a dealer holding a valid exemption certificate. The emphasis is on the goods manufactured. However, it is confined by the condition that the said manufacture should be within the exemption period and by a dealer holding an exemption certificate.

19. We have reproduced the exemption notification above and referred to the language employed. At this juncture, it is absolutely necessary to understand the language employed in the proviso to the notification. If there was no proviso to the notification there would have been no difficulty whatsoever in holding that the exemption is qua the goods manufactured and was not curtailed or restricted to the sales made by the manufacturer dealer and would not apply to the second or subsequent sales made by a trader, who buys the goods from the manufacturer-dealer and sells the same in the course of inter-state trade or commerce. It is pertinent to note that, clause (ii) of sub-rule (n) refers to sale of finished products in the course of inter-state trade or commerce where the finished products are manufactured by eligible industrial unit. There is no stipulation that only the first sale or the sale by the eligible industrial unit in Inter State or Trade would be exempt. The confusion arises, as it seems to us, in the proviso to the notification which states that the manufacturer-dealer

should not have charged tax. It needs no special emphasis to mention that provisos can serve various purposes. The normal function is to qualify something enacted therein but for the said proviso would fall within the purview of the enactment. It is in the nature of exception. [See : *Kedarnath Jute Manufacturing Co. Ltd v. Commercia.l Tax Officer*[12]]. Hidayatullah, J. (as his Lordship then was) in *Shah Bhojraj Kuverji Oil Mills and Ginning Factory v. Subhash Chandra Yograj Sinha*[13] had observed that a proviso is generally added to an enactment to qualify or create an exception to what is in the enactment, and the proviso is not interpreted as stating a general rule. Further, except for instances dealt with in the proviso, the same should not be used for interpreting the main provision/enactment, so as to exclude something by implication. It is by nature of an addendum or dealing with a subject matter which is foreign to the main enactment. (See : *CIT, Mysore etc. v Indo Mercantile Bank Ltd* [14]). Proviso should not be normally construed as nullifying the enactment or as taking away completely a right conferred.

20. Read in this manner, we do not think the proviso should be given a greater or more significant role in interpretation of the main part of the notification, except as carving out an exception. It means and implies that the requirement of the proviso should be satisfied i.e. manufacturing dealer should not have charged the tax. The proviso would not scuttle or negate the main provision by holding that the first transaction by the eligible manufacturing dealer in the course by way of inter-state sale would be exempt but if the inter-state sale is made by trader/purchaser, the same would not be exempt. That will not be the correct understanding of the proviso. Giving over due and extended implied interpretation to the proviso in the notification will nullify and unreasonably restrict the general and plain words of the main notification. Such construction is not warranted.

21. Quite apart from the above, Rule 28A(4)(c) supports the interpretation and does not counter it. The said rule exempts all intra-state sales including subsequent sales. The reason for enacting this clause is obvious. The intention is to exempt all subsequent stages in the State of Haryana and the eligible product can be sold a number of times, without payment of tax. Intra-state sales refer to sale between two parties within the State of Haryana. Inter-state transaction results in movement of goods from State of Haryana to another State. Thus, clause (ii) of sub-rule 2(4) refers to inter-state trade or commerce and the notification does not refer to subsequent sales as in case of Rule 28A(4) (c). Whether or not tax should be paid on subsequent sales/purchase in the other State cannot be made subject matter of Rule 28A or the notification. Inter-State sale from the State of Haryana will be only once or not a repeated one. Therefore, there is no requirement of reference to subsequent sale. In this context, it is rightly submitted by the assessee that there is only one inter-State sale from the State of Haryana and the interpretation as suggested by the revenue would tantamount to making the exempted goods chargeable to tax, and the said goods would cease to enjoy the competitive edge given to the manufacturer in the State of Haryana. It will be counter-productive.

22. In view of aforesaid analysis, we allow the appeals and set aside all the impugned orders and hold that assessees shall reap the benefit of the notification dated 04.09.1995 as interpreted by us. There shall be no order as to costs.

Judgment Referred.

[1]*(1975) 35 STC 0001*
[2]*(1992) 85 STC 0432*
[3]*(1992) 85 STC 0432*
[4]*(1996) 101 STC 0547*
[5]*(1999) 114 STC 0365*
[6]*(1996) 101 STC 0017*
[7]*(2008) 4 SCC 0720*
[8]*(2011) 10 SCC 0292*
[9]*(2011) 6 SCC 0545*
[10]*(2005) 9 SCC 0669*
[11]*(1994) Suppl. 3 SCC 0606*
[12]*AIR 1966 SC 0012*
[13]*AIR 1961 SC 1596*
[14]*AIR 1959 SC 0713*