



2026:AHC-LKO:20869

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SALES/TRADE TAX REVISION No. - 243 of 2004

M/S Shakumbari Sugar And Allied Industries Ltd.

.....Revisionist(s)

Versus

Commissioner Trade Tax Lko. And Ors.

.....Opposite
Party(s)

Counsel for Revisionist(s) : S.M.K. Chaudhary, Shubham Agrawal,
Yogesh Chandra Srivastava

Counsel for Opposite Party(s) : C.S.C.

Court No. - 5

HON'BLE ALOK MATHUR, J.

1. Heard Sri Shubham Agarwal, Advocate assisted by Sri Yogesh Chandra Srivastava, learned counsel for the revisionist as well as Sri Sanjay Sarin, learned Standing Counsel for the opposite parties.

2. By means of present revision the revisionist has assailed the validity of judgment and order dated 24.07.2004, passed by the Trade Tax Tribunal whereby claim of revisionist has been rejected.

3. It has been submitted by learned counsel for the revisionist that the revisionist is an Industrial Unit and engaged in manufacture of sugar, molasses and press muds and has established the Industrial Unit in the year 1995-96 and started production with effect from 28.04.1996. With regard to eligibility of the revisionist it has been submitted that the Divisional Level Committee has considered the case and material submitted by the revisionist and has granted Eligibility Certificate under Section 4-A of the U.P. Trade Tax Act and has accepted fixed capital investment of Rs.46,37,111,40/-.

4. It is next submitted by learned counsel for the revisionist that at the stage of making application under Section 4A of the U.P. Trade Tax Act, claim made by the revisionist was for investment of Rs.505469754/-, while the State had considered the claim of only Rs.46,37,111,40/-. It is submitted that eligibility certificate was granted to the revisionist which

was valid for a period of eight years i.e. from 13.02.1996 to 12.02.2004.

5. It is further submitted by learned counsel for the revisionist that as per Notification dated 31.03.1995. issued by the State of U.P. under Section 4A of the U.P. Trade Tax Act, numbered as TT-2-780/XI-9(226/94-UP), which provided that the State for the purposes of promoting and development of certain industries in the State, it is necessary to grant exemption or reduction in rate of tax to new industrial units. Hence, decision has been taken for promoting establishment of industrial units in certain areas as mentioned in Column 2 of Annexure 1 of the said notification, which indicates that for industrially backward areas, exemption was being granted to the industries established in such areas. It is under the notification dated 31.03.1995, that the revisionist had applied and his application was duly approved and registered.

6. It is further noticed that in 1997, another notification was issued by the State Government on 21.02.1997, which was specific with regard to Industrial Units having fixed capital investment of Rs.50 Crores or more as new units and making additional fixed capital investment of Rs.50 Crores or more on land, building, plant and machinery and other fixed assets to be considered for the purposes of grant of exemption or reduction in the rate of tax under Section 4A of the U.P. Trade Tax Act. The revisionist has also claimed benefit of Notification dated 21.02.1997.

7. The revisionist being aggrieved by the order of the State Government in granting exemption only to the amount of Rs.46 Crores, filed an appeal before the Trade Tax Tribunal. The Tribunal by means of order dated 28.11.2000, remanded the matter back to the Divisional Level Committee for re-consideration of the application of revisionist on re-appreciation of facts regarding the amount of investment made by the revisionist. The Divisional Level Committee by means of order dated 30.12.2003, further reduced the amount to Rs.449231031/- and against the order dated 30.12.2003, the revisionist filed another appeal before the Trade Tax Tribunal which has been rejected by means of impugned order dated 24.07.2004, which has been assailed in the present revision.

8. It has been submitted by learned counsel for the revisionist that balance

sheet submitted by the revisionist was submitted belatedly after 30 days period and consequently, same was rejected. It has been further submitted that the second ground for rejecting the amount of Rs.11,12,41,042.00, which has been invested by the revisionist towards capital cost for setting up a new industrial unit was also rejected and also that aforesaid figures were never provided by the revisionist at the time of filing his application under the Notification No. 640/641.

9. Learned counsel for the revisionist has submitted that admittedly in case certificate issued by the Chartered Accountant which was submitted by the revisionist has been accepted alongwith the application then the amount of investment, would have certainly exceed Rs.50 Crores and on this ground revisionist has assailed the impugned order.

10. The revisionist in support of his submissions has relied upon the judgment of Hon'ble Supreme Court rendered in the case of **Commissioner of Sales Tax Vs. Industrial Coal Enterprises, 1999 UPTC 250**, where the Apex Court has reiterated the averments made in their previous judgment rendered in the case of **State Level Committee and Another Vs. Morgrdshammar India Ltd., (1996) UPTC 213 (SC)**. The Court in **Commissioner of Sales Tax Vs. Industrial Coal Enterprises (supra)** in para 11 and 12, has held as under :-

"11. In Commissioner of Income Tax, Amritsar v. Straw Board Manufacturing Co. Ltd., 1989 Suppl (2) SCC 523 : 1989 UPTC 1300 (SC) this Court held that in taxing statutes, provision for concessional rate of tax should be liberally construed. So also in Bajaj Tempo Ltd., Bombay v. Commissioner of Income Tax, Bombay City-III, Bombay, (1992) 3 SCC 78 : 1992 UPTC 857 (SC), it was held that provision granting incentive for promoting economic growth and development in taxing statutes should be liberally construed and restriction placed on it by way of exception should be construed in a reasonable and purposive manner so as to advance the objective of the provision.

12. We find that the object of granting exemption from payment of sales tax has always been for encouraging capital investment and establishment of industrial units for the purpose of increasing

production of goods and promoting the development of industry in the State, If the test laid down in Bajaj Tempo Ltd. case (supra) is applied, there is no doubt whatever that the exemption granted to the respondent from 9th August, 1985 when it fulfilled all the prescribed conditions will not cease to operate just because the capital investment exceeded the limit of Rs.3 lakhs on the account of the respondent becoming the owner of land and building to which the unit was shifted. If the construction sought to be placed by the appellant is accepted, the very purpose and object of the grant of exemption will be defeated. After all, the respondent had only shifted the unit to its own premises which made it much more convenient and easier for the respondent to carry on the production of the goods undisturbed by the vagaries of the lessor and without any necessity of spend a part of its income on rent. It is not the case of the appellant that there was any mala fides on the part of the respondent in obtaining exemption in the first instance as a unit with a capital investment below Rs.3 lakhs and increasing the capital investment subsequently to an amount exceeding Rs. 3 lakhs with a view to defeat the provisions of any of the relevant statutes. The bona fides of the respondent have never been questioned by the appellant."

11. The Apex Court while considering similar controversy was of the view that for increasing the production of certain goods in the State, manufactured by the industrial units/new industrial units for expansion, modernization, diversification or backward integration be granted exemption from or reduction in rate of tax and accordingly for grant of such exemption notification ought to liberally construed in favour of the industrial units. It was also stated that in order to meet the purpose, such notification has to be construed in a reasonable and purposive manner so as to advance the objective of the provision.

12. Accordingly, considering the facts of the present case, this Court finds that merely because balance sheet was provided 30 days after the cut-off period and chartered accountant's certificate was submitted after the prescribed time, same ought to have been considered by the authorities and same could not have been rejected summarily as has been done in the present case and accordingly the impugned order is required to be interfered with, and is accordingly set aside.

13. This Court would further like to observe that with regard to argument raised by the revisionist for being granted benefit under the Notification dated 21.02.1997, it is noticed that undoubtedly, the revisionist had applied for and was granted exemption under the notification no. 780, but the benefit sought by the revisionist is under notification no. 640-641. Notification No. 640-641 was issued on 21.02.1997 was for setting up industrial units with fixed capital of Rs.50 Crores or more as new units and secondly for even those units who were making additional fixed investment of Rs.50 Crores or more for expansion, modernization, diversification or backward integration would also be granted benefit of such exemption.

14. Undoubtedly, the revisionist had applied for grant of benefit of notification no. 780 dated 03.05.1995 and he had never applied for being registered or approved under the notification no. 640-641, dated 21.02.1997. Once, revisionist had already got benefit of notification no. 780 and subsequent notification was issued on 21.02.1997, then unless and until revisionist had applied under the said notification and he is registered under the said notification, benefit under such notification dated 21.02.1997 could not have been extended to the revisionist. Merely because subsequent notification has been promulgated, the benefits extended under the said notification cannot apply to the existing industrial units, until they make appropriate application and such applications are accepted. It is the discretion of the State Government to issue or not to issue any notification under Section 4A of the U.P. Trade Tax Act as it has huge financial repercussions and conditions regarding eligibility and the notification has to be strictly adhered to.

15. Accordingly, this Court do not find that the revisionist would be entitled to the benefit of notification no. 640-641, issued on 21.02.1997.

16. Accordingly, for the aforesaid reasons, the impugned judgment and order dated 24.07.2004 passed by the Trade Tax Tribunal is set aside and the matter is remitted to the Tribunal for passing appropriate orders in the light of the judgment of this Court with expedition. Further it is submitted by learned counsel for the revisionist that certain grounds have been raised before the Tribunal, but the same have not been considered or

looked into by the Tribunal. Hence, the Tribunal is directed to consider the claim of revisionist as initially made in their appeal, afresh and pass appropriate orders with expedition say within three months from the date of production of certified copy of this order.

17. Subject to aforesaid observations, present revision stands **allowed**.

(Alok Mathur,J.)

March 23, 2026

A. Verma