IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THE HONOURABLE THE ACTING CHIEF JUSTICE
P.SAM KOSHY
AND
THE HONOURABLE SRI JUSTICE NARSING RAO NANDIKONDA

Tax Revision Case No.51 of 2010
CNR No.HBHC010541022010
Tax Revision Case No.64 of 2010
CNR.No.HBHC010260202010
and
Tax Revision Case No.65 of 2010
CNR.No.HBHC010261162010

Date of Order: 05.11.2026

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Tax Revision Case No.51 of 2010

Between:
M/s. ITC Bhadrachalam Paper Boards Ltd.

…Petitioner

AND

State of Andhra Pradesh, represented by the State Representative
before Sales Tax Appellate Tribunal,
Nampally, Hyderabad.

…Respondent

COMMON ORDER: *(per The Hon'ble The Acting Chief Justice P.Sam Koshy)*

Heard Dr. M.V.K. Moorthy, learned Senior Counsel appearing on behalf of Mr. M.V.J.K. Kumar, learned counsel for the petitioner;

and Mr. Swaroop Oorilla, learned Special Government Pleader for State Tax appearing for the respondent.

2. These are three Tax Revision Cases filed by the petitioner / assessee under Section 22(1) read with Rule 10 of the Andhra Pradesh Goods and Service Tax Rules (hereinafter referred to as 'APGST Rules') under the Andhra Pradesh Goods and Service Tax Act, 1957 (hereinafter referred to as 'APGST Act') challenging the orders passed by the Sales Tax Appellate Tribunal, Andhra Pradesh, Hyderabad (hereinafter referred to as the 'STAT').

3. The assessment year involved in each of the case for ready reference is reproduced below:

Sl.No.	Tax Revision Case	Assessment Year
01.	51 of 2010	1998-99
02.	64 of 2010	2000-01
03.	65 of 2010	2000-01

4. Since the point of contention is same in all these cases, they are taken up for hearing and are decided by this Common Order. For convenience, Tax Revision Case No.51 of 2010 is taken up as the lead case.

5. Tax Revision Case No.51 of 2010 is filed by the petitioner challenging the order dated 03.08.2009, in T.A.No.407/03, passed by

the STAT. *Vide* the impugned order, the petitioner stood excluded from availing the benefit of deferment of sales tax on the base turnover of sales from paper, paper boards and scrap manufactured by the petitioner.

6. The facts of the case are that the petitioner is a company registered under the Companies Act, 1956 which was subsequently amalgamated with M/s. ITC Limited, Kolkata. The divisional head quarters of the Paperboards and Speciality Papers Division of M/s. ITC Limited was located at Secunderabad. Industrial incentive was granted to the petitioner *vide* the Final Eligibility Certificate dated 07.10.2002, issued by the Department of Industries in terms of the Industrial Policy, namely the Target 2000 Scheme, as declared in G.O.Ms.No.108, Industries and Commerce (IP) Department, dated 20.05.1996. As per the said Final Eligibility Certificate, the petitioner was entitled to sales tax deferment to the tune of Rs.615,82,00,480/-, which could be availed over a period of 14 years commencing from 01.04.1998 and ending on 31.03.2012, in respect of the turnover over and above the base turnover of Rs.260,28,43,150/-. In other words, the total tax deferment was subject to a monetary limit of Rs.615,82,00,480/- to be availed within the said 14 years. The deferment could therefore be availed only if the turnover during a

particular year exceeded the base turnover of Rs.260,28,43,150/- and up to the base turnover the petitioner was required to pay sales tax as usual.

7. The expression "base turnover" was not defined in the Sales Tax Act. It was, however, defined in Paragraph No.7 of the Industrial Policy document in G.O.Ms.No.108, according to which base turnover meant the best turnover amongst the 3 years preceding the year of expansion. The petitioner's manufacturing unit went into expansion for an additional production capacity of 1,20,000 tonnes per annum, as against the original capacity of 62,500 tonnes per annum. The base turnover in the case of the petitioner, as was evident from the eligibility certificate was fixed at Rs.260,28,43,150/-, being the highest turnover of the preceding 3 years namely 1995-96, 1996-97 and 1997-98. It is pertinent to note that while calculating the base turnover of Rs.260,28,43,150/-, the authorities had included all the turnovers, including the turnover relating to paper, paperboards and scrap. However, while issuing the revised Final Eligibility Certificate, the tax turnover was limited to paper and paperboards, to the exclusion of tax deferment in respect of the sale of scrap.

8. It is case of the petitioner that once the base turnover comprising all sales had been fixed by the competent authority in

terms of Paragraph No.7 of G.O.Ms.No.108, the Commercial Taxes Department in general, and the assessing authority in particular, being the authority entrusted with extending the benefit of the incentive, could not have disallowed tax deferment on the turnover pertaining to scrap. Since the base turnover included paper, paperboards and scrap, tax deferment ought to have been equally available on the turnover pertaining to paper, paperboards and scrap, and there was thus an inconsistency in the stand of the Department. The petitioner had not objected to the fixation of the base turnover as including the turnover relating to scrap in the firm hope that the Department would allow tax deferment on the turnover relating to scrap as well. Assessments were, however, completed under the APGST Act and the CST Act for the assessment years 1998-99, 1999-2000 and 2000-2001, whereby the petitioner was denied the incentive of deferment on scrap sales, although the base turnover included the turnover relating to scrap. The assessing authority was thus stated to have adopted the principle of approbation and reprobation in respect of the very same issue.

9. Having regard to the injustice so occasioned, and at the instance of the petitioner and on the report of the Commissioner of Commercial Taxes, the base turnover was revised by the competent authority, after seeking the approval of the State Level Committee,

from Rs.260,28,43,150/- to Rs.236,61,08,031/-, and a revised Final Eligibility Certificate dated 16.01.2004 was accordingly issued incorporating the base turnover of Rs.236,61,08,031/- in place of the original base turnover of Rs.260,28,43,150/-. While the base turnover was so revised, the turnover relating to scrap was excluded and the revised base turnover included the turnover relating to paper and paperboards only. Since the original certificate remained in force till 16.01.2004, the petitioner acted upon the same by calculating its turnover as including the turnover relating to scrap and claimed deferment on it.

10. The appeals filed by the petitioner against the assessment orders before the Appellate Deputy Commissioner and the STAT ended without success, in spite of the petitioner having furnished cogent evidence and binding judicial precedents in substantiation of its claim. Aggrieved by the orders of the STAT, the present Tax Revision Case was preferred.

11. Learned Senior Counsel appearing for the petitioner submitted that the STAT failed to appreciate the fact that initially the base Turnover was fixed by taking into account turnover pertaining to paper, paperboards and scrap etc., whereas while granting tax deferment, the turnover was restricted to turnovers in respect of paper

and Paperboards only thereby excluding the turnovers relating to scrap. Learned Senior Counsel further submitted that even the petitioner did not seek amendment of Final Eligibility Certificate on the fond hope that the sales tax department would allow tax deferment on the sale of scrap also. It is only at a later stage that the petitioner realized the intention of the Department and took steps for amendment of final eligibility certificate.

12. Learned Senior Counsel for the petitioner also submitted that allowing tax deferment on the turnover relating to scrap does not result in amendment of Final Eligibility Certificate as was held by the STAT, inasmuch as the scrap arises out of the main activity of manufacture of paper and paper board and the same is integrally connected to manufacturing activity. Therefore, turnover arising out of scrap as such is not an independent activity to be excluded from the main activity. Precisely on the same assumption, initially the base turnover was determined by taking into account the turnover relating to scrap. Since the Department refused to allow tax deferment on turnover relating to scrap, the petitioner was compelled to seek for amendment of Final Eligibility Certificate.

13. Learned Senior Counsel for the petitioner further contended that the Department is estopped from changing its stand after grant of final eligibility certificate because the certificate was issued to the petitioner only after the approval and clearance given by the sales tax department. Learned Senior Counsel relied on the principle of 'promissory estoppel' inasmuch as the petitioner proceeded on the assumption that if base turnover includes the turnover relating to scrap, the additional turnover on which deferment is being granted would also include the turnover relating to scrap.

14. On the other hand, the learned Special Government Pleader for State Tax relied on the judgment of the Hon'ble Supreme Court in the case of **Checkmate Services (P) Ltd. vs. CIT**[1] wherein it was held that taxing statutes are to be construed strictly and that there can be no room for equitable considerations.

15. Learned Special Government Pleader for State Tax also relied on the judgment of the Hon'ble Supreme Court in the case of **Rajasthan SEB vs. CIT**[2] wherein it was held that while interpreting a tax legislature the consequences and hardship are not looked into but

[1] (2023) 6 SCC 451
[2] (2021) 14 SCC 557

the purpose and object by which taxing statutes have been enacted cannot be lost sight.

16. Learned Special Government Pleader for State Tax further relied on the judgment of the Hon'ble Supreme Court in the case of **AMD Industries Ltd. vs. CIT**[3] wherein it was held that in a case of "expansion or modernisation" the exemption shall be available only if there is an additional production as a result of such modernisation or expansion.

17. Having heard both the sides at length and on perusal of records, the question of law which falls for consideration is "whether in the facts and circumstances of the case the petitioner was entitled to avail deferment of sales tax in respect of the turnover relating to scrap when the original Final Eligibility Certificate fixed the base turnover by including the turnover relating to paper, paperboards and scrap, but the incentive of deferment was confined by the Revised Final Eligibility Certificate to the turnover relating to paper and paperboards alone?"

18. The controversy is narrow, though of considerable fiscal consequence. The petitioner was granted an industrial incentive

[3] (2023) 4 SCC 231

under the Target 2000 Scheme, as contained in G.O.Ms.No.108, Industries and Commerce (IP) Department, dated 20.05.1996. The incentive was in the nature of deferment of sales tax subject to a monetary ceiling and a defined period. The eligibility certificate fixed the base turnover at Rs.260,28,43,150/-, being the highest turnover among the 3 preceding years, namely 1995-96, 1996-97 and 1997-98. That base turnover admittedly included the turnover relating to paper, paperboards and scrap. The petitioner, however, claimed deferment not only on the turnover exceeding the base turnover, but also on the turnover relating to scrap.

19. The petitioner's argument proceeds on the premise that because scrap was included in the computation of the base turnover, it must necessarily form part of the turnover eligible for deferment. We are unable to accept this submission. The base turnover and the eligible turnover for deferment perform distinct statutory and policy functions. The base turnover is the threshold against which additional turnover is measured for the purpose of extending the incentive. It does not, by itself, determine the commodities or transactions on which deferment may be claimed. The latter question must be answered by reference to the eligibility certificate, the industrial policy, and the conditions subject to which the incentive was granted.

20. The Final Eligibility Certificate dated 07.10.2002 granted deferment up to Rs.615,82,00,480/- over a period of 14 years commencing from 01.04.1998 and ending on 31.03.2012, in respect of turnover over and above the base turnover. The certificate did not create an unqualified entitlement to deferment on every item of sale undertaken by the petitioner. The incentive was conditional, quantified, and period-bound. Where an industrial incentive is granted upon stated conditions, the beneficiary must establish compliance with those conditions; the Court cannot expand the benefit by implication, equity, or assumed intention.

21. The subsequent conduct of the Department reinforces this conclusion. The base turnover was revised from Rs.260,28,43,150/- to Rs.236,61,08,031/- by the Revised Final Eligibility Certificate dated 16.01.2004. The revision was made after excluding the turnover relating to scrap. Thus, the competent authority clarified that the eligible turnover for deferment was confined to paper and paperboards. The petitioner's contention that the Department was bound, on the principle of promissory estoppel, to allow deferment on scrap merely because scrap had earlier been included in the base

turnover, conflates the calculation of the threshold with the grant of the concession.

22. Promissory estoppel cannot be invoked to compel the State to grant a fiscal benefit beyond the terms of the policy or the eligibility certificate. The doctrine may prevent the State from acting inconsistently with a clear promise upon which a party has acted to its detriment, but it cannot be used to create an exemption, concession, or deferment which was never granted in clear and unambiguous terms. A taxing concession must rest upon authority of law and must be traced to the applicable policy instrument. It cannot be inferred from an ambiguity, an administrative omission, or a unilateral expectation of the assessee.

23. The petitioner's reliance on the circumstance that it did not seek amendment of the Final Eligibility Certificate until later is also of no assistance. The petitioner claims to have acted on the original certificate in the hope that scrap turnover would be included in the deferment benefit. Such an expectation, however reasonable it may have appeared to the petitioner, cannot alter the scope of the incentive. The Revised Final Eligibility Certificate dated 16.01.2004 made the Department's position explicit by excluding scrap from the

eligible turnover. Thereafter, the petitioner could not claim deferment on scrap turnover for periods governed by assessments already completed.

24. The settled principles governing exemption and incentive provisions support this view. In **Checkmate Services (P) Ltd. vs. CIT**[4] the Hon'ble Supreme Court held that where a deduction or exemption is available upon compliance with conditions, those conditions must be strictly complied with; taxing statutes admit of no equitable considerations. The relevant paragraphs are reproduced below for ready reference:

> **"55. One of the rules of interpretation of a tax statute is that if a deduction or exemption is available on compliance with certain conditions, the conditions are to be strictly complied with. [See e.g., Eagle Flask Industries Ltd. v. CCE, (2004) 7 SCC 377] This rule is in line with the general principle that taxing statutes are to be construed strictly, and that there is no room for equitable considerations."**
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> **56.** That deductions are to be granted only when the conditions which govern them are strictly complied with. This has been laid down in State of Jharkhand v. Ambay Cements [State of Jharkhand v. Ambay Cements, (2005) 1 SCC 368] as follows : (SCC p. 378, paras 23-26)
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> "23. … In our view, the provisions of exemption clause should be strictly construed and if the condition under which the

[4] (2023) 6 SCC 451

exemption was granted stood changed on account of any subsequent event the exemption would not operate.

24. In our view, an exception or an exempting provision in a taxing statute should be construed strictly and it is not open to the court to ignore the conditions prescribed in the industrial policy and the exemption notifications.

25. In our view, the failure to comply with the requirements renders the writ petition filed by the respondent liable to be dismissed. While mandatory rule must be strictly observed, substantial compliance might suffice in the case of a directory rule.

26. Whenever the statute prescribes that a particular Act is to be done in a particular manner and also lays down that failure to comply with the said requirement leads to severe consequences, such requirement would be mandatory. It is the cardinal rule of interpretation that where a statute provides that a particular thing should be done, it should be done in the manner prescribed and not in any other way. It is also settled rule of interpretation that where a statute is penal in character, it must be strictly construed and followed. Since the requirement, in the instant case, of obtaining prior permission is mandatory, therefore, non-compliance with the same must result in cancelling the concession made in favour of the grantee, the respondent herein."

This was also reaffirmed in a number of judgments, such as CIT v. Ace Multi Axes Systems Ltd. [CIT v. Ace Multi Axes Systems Ltd., (2018) 2 SCC 158]

57. The Constitution Bench, in Commr. of Customs v. Dilip Kumar & Co. [Commr. of Customs v. Dilip Kumar & Co., (2018) 9 SCC 1] endorsed as following : (SCC pp. 19 & 23-24, paras 24 & 34)

"**24. In construing penal statutes and taxation statutes, the Court has to apply strict rule of interpretation**. The penal statute which tends to deprive a person of right to life and liberty has to be given strict interpretation or else many innocents might become victims of discretionary decision-making. Insofar as taxation statutes are concerned, Article 265 of the Constitution ["**265. Taxes not to be imposed save by authority of law**.—No tax shall be levied or collected except by authority of law."] prohibits the State from extracting tax from the citizens without authority of law. It is axiomatic that taxation statute has to be interpreted strictly because the State cannot at their whims and fancies burden the citizens without authority of law. In other words, when the competent legislature mandates taxing certain persons/certain objects in certain circumstances, it cannot be expanded/interpreted to include those, which were not intended by the legislature.

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34. The passages extracted above, were quoted with approval by this Court in at least two decisions being CIT v. Kasturi & Sons Ltd. [CIT v. Kasturi & Sons Ltd., (1999) 3 SCC 346] and State of W.B. v. Kesoram Industries Ltd. [State of W.B. v. Kesoram Industries Ltd., (2004) 10 SCC 201] (hereinafter referred to as Kesoram Industries case, for brevity). In the later decision, a Bench of five Judges, after citing the above passage from Justice G.P. Singh's treatise, summed up the following principles applicable to the interpretation of a taxing statute:

> '(i) In interpreting a taxing statute, equitable considerations are entirely out of place. A taxing statute cannot be interpreted on any presumption or assumption. **A taxing statute has to be interpreted in the light of what is clearly expressed; it cannot**

> **imply anything which is not expressed; it cannot import provisions in the statute so as to supply any deficiency;**
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> (ii) Before taxing any person, it must be shown that he falls within the ambit of the charging section by clear words used in the section; and
>
> (iii) If the words are ambiguous and open to two interpretations, the benefit of interpretation is given to the subject and there is nothing unjust in a taxpayer escaping if the letter of the law fails to catch him on account of the legislature's failure to express itself clearly.'"

25. The same principle applies with greater force to an incentive such as sales-tax deferment. Deferment is not a general exemption from tax; it is a fiscal concession permitting postponement of payment subject to the terms of the scheme. The beneficiary cannot claim the concession by relying on the breadth of the base-turnover calculation while ignoring the express limitation placed upon the eligible turnover. The assessing authority was therefore justified in confining deferment to paper and paperboards and excluding scrap.

26. The petitioner's further submission that scrap is integrally connected with the manufacture of paper and paperboards, and therefore cannot be treated as an independent activity, does not advance its case. Even assuming that scrap arises incidentally from the principal manufacturing activity, the question is not whether scrap

is commercially or industrially connected with paper manufacture. The question is whether the incentive certificate extended deferment to scrap turnover. The answer is in the negative. A product may be incidental to the main manufacturing activity and yet remain outside the scope of a fiscal incentive if the eligibility certificate does not expressly include it.

27. Nor are we persuaded that the assessing authority adopted inconsistent standards. The inclusion of scrap in the base turnover was relevant only for determining the threshold turnover. Its exclusion from the deferment benefit was relevant to the quantum and scope of the concession. The two determinations are not contradictory; they address different aspects of the incentive scheme. Thus there is no question of approbation and reprobation.

28. In the case of **Rajasthan SEB vs. CIT**[5] the Hon'ble Supreme Court reiterated that hardship or consequences cannot dilute the clear language of a taxing provision, although the object and purpose of the legislation must be kept in view. In paragraph No.25 of the said judgment, it was held as under:

> "**25.** It is true that while interpreting a tax legislature the consequences and hardship are not looked into but the purpose and

[5] (2021) 14 SCC 557

> object by which taxing statutes have been enacted cannot be lost sight. This Court while considering the very same provision i.e. Section 143(1-A), its object and purpose and while upholding the provision held that the burden of proving that the assessee has attempted to evade tax is on the Revenue which may be discharged by the Revenue by establishing facts and circumstances from which a reasonable inference can be drawn that the assessee has, in fact, attempted to evade tax lawfully payable by it. In the present case, not even a whisper, that claim of 100% depreciation by the assessee, 25% of which was disallowed was with intent to evade tax. We cannot mechanically apply the provisions of Section 143(1-A) in the facts of the present case and in view of the categorical pronouncement by this Court in CIT v. Sati Oil Udyog Ltd. [CIT v. Sati Oil Udyog Ltd., (2015) 7 SCC 304] , where it is held that Section 143(1-A) can only be invoked when the lesser amount stated in the return filed by the assessee is a result of an attempt to evade tax lawfully payable by the assessee. In view of the above, we hold that mechanical application of Section 143(1-A) in the facts of the present case was uncalled for."

29. In the case of **AMD Industries Ltd. vs. CIT**[6] it was held that exemption provisions must be construed literally and that the claimant must satisfy every condition of the exemption. The petitioner has not shown that the eligibility certificate, the industrial policy, or any other binding instrument conferred deferment on scrap turnover. In paragraph Nos.9 to 13 of the said judgment, it was held as under:

> "**9.** In the case of "expansion or modernisation", the exemption shall be available, if there is an additional production as a result of such modernisation or expansion. In the present case, we are

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concerned with the case of "diversification". Therefore, the goods manufactured after diversification must be different goods from the goods manufactured before such diversification. **As per the settled position of law, in case of an exemption notification/exemption provision, the same is required to be construed literally and the person claiming the exemption must satisfy all the conditions of exemption provision.**

10. In the present case, the appellant was manufacturing/producing "spun line crown cork" used for sealing the glass bottles. With the use of modern technologies, now the appellant is manufacturing "double lip dry blend crowns", which is also used for sealing the glass bottles. The earlier product being manufactured by the appellant was used for sealing glass bottles and subsequently the additional product produced with the use of modern technology is also being used for the same purpose, namely, "sealing glass bottles". Therefore, the same cannot be said to be manufacturing of goods different from that being manufactured before such diversification.

11. With the passage of time, due to advancement in technology, if there is a replacement of the old machinery with the new machinery for improvement in quality and quantity of a product, at the most, it can be said to be expansion and/or modernisation, but it cannot be said to be "diversification", which is "manufacturing of goods different from the goods manufactured before such diversification". In a case of "diversification", the effect has to be that the quality and quantity of the product should have been improved and/or increased but if the ultimate use is the same, the product manufactured on use of modern and/or advanced technology cannot be said to be manufacturing the different goods for claiming the exemption from payment of trade tax.

12. The words used in Section 4-A are very clear and unambiguous. As per the settled proposition of law and as observed hereinabove, the statute and more particularly, the exemption provisions are to be read

as they are and to be construed literally and should be given a literal meaning. Giving the literal meaning to the exemption provision, namely, Section 4-A, it cannot be said that the appellant is entitled to the exemption as claimed.

13. Considering the aforesaid facts and circumstances of the case and as observed hereinabove, when the provisions of the Act unequivocally provides that the "diversification" can be considered only in a case where "goods of different nature" are produced, and only then the exemption shall be available. The goods manufactured on "diversification" must be a "different", "distinct" and a "separate" goods in nature. In the present case, the goods manufactured on use of advance and/or modern technology, cannot be said to be a different commercial activity at all. The High Court has not committed any error in refusing to grant exemption to the appellant. We are in complete agreement with the view taken by the High Court."

30. A fiscal incentive is not a matter of grace to be enlarged by judicial benevolence, nor is it an entitlement to be inferred from the manner in which a threshold was computed. It is a statutory or policy-based concession, defined by its terms, conditioned by its limits, and available only to those who bring themselves squarely within its scope. The discipline of tax law lies in respecting the boundary between what the State has granted and what the taxpayer hopes to receive. The STAT, therefore, correctly held that the petitioner was not entitled to deferment of sales tax on the turnover relating to scrap. The assessment orders and the

appellate orders do not suffer from any jurisdictional error, perversity, or misreading of material evidence warranting interference.

31. In view of the aforesaid discussion, the question of law stands answered in favour of the respondent and against the petitioner. Accordingly, Tax Revision Case No.51 of 2010 stands dismissed.

32. Consequently, Tax Revision Case Nos.64 and 65 of 2010 also stand dismissed on similar lines.

33. As a sequel, miscellaneous petitions pending if any, shall stand closed. However, there shall be no order as to costs.

P. SAM KOSHY, ACJ

NARSING RAO NANDIKONDA, J

Date: 05.11.2026
GSD