An interpretation which will result in an anomaly or absurdity should be avoided and where literal construction creates an anomaly, absurdity and discrimination, statute should be liberally construed even slightly straining the language so as to avoid the meaningless anomaly.

[Case Brief] State of Jharkhand & Ors V/s Tata Steel Ltd. & Ors

Case name: State of Jharkhand & Ors. Versus Tata Steel Ltd. & Ors.

Citation: CIVIL APPEAL NO. 4285 OF 2007

Court: Supreme Court of India
Civil Appellate Jurisdiction

Bench: Hon'ble Justice Dipak Misra
Hon'ble Justice N.V Ramana

Decided on: February 12, 2016

Relevant Act/Sections:

- **BRIEF FACTS AND PROCEDURAL HISTORY:**

1. The background of the facts M/s. Tata Steel Limited, the 1st respondent herein, had established a manufacturing unit for production of HRP, rounds, structural and other iron and steel products in Dhanbad situated in erstwhile Bihar in the light of industrial policy formation by the State of Bihar on 22.12.1995 in order to attract investments.
2. The said policy was issued in exercise of power conferred by Section 23A of the Bihar Finance Act, 1981 (for short, "the 1981 Act") and the purpose of framing the policy was industrial growth of the State. The said policy was issued in exercise of power conferred by Section 23A of the Bihar Finance Act, 1981 (for short, "the 1981 Act") and the purpose of framing the policy was industrial growth of the State.
3. The matter stood thus, the Bihar Reorganisation Act, 2000 came into existence on 15.11.2000 as a result of which Jamshedpur became part of a newly carved out State, namely, Jharkhand.

After coming into force of the new State, on 15.12.2000, the Governor of Jharkhand by notification ordered that the 1981 Act, the Central Sales Tax (Bihar) Rules, 1956 and the notifications made thereunder, etc. amongst other Acts, Rules and Regulations, shall be deemed to be in force in the entire State of Jharkhand w.e.f. 15.11.2000.

4. On 21.12.2000, the successor State issued an exemption certificate as contemplated in earlier notification issued by the Bihar State Finance and Commercial Taxes Department exempting the new units which also included the unit established by the 1st respondent, from the purchase tax as well as the sales tax on purchase and sales made in regard to the cold rolling mill.
5. The exemption was issued by the Joint Commissioner who had held HR and CR products different, thus holding the respondent eligible for compensation under Industrial Policy. However, the Commissioner of Commercial Taxes, Jharkhand initiated a *suo motu* revision under Section 46(4) of the 1981 Act and placing reliance on ***Telangana Steel Industries v. State of A.P.***1 held that the two products must be treated as the same commodity and the products not being different commodities, the benefit of exemption was not available.
6. A series of appeals were filed by both the parties wherein ultimately this court reversed the previous High Court order and held that the present respondent was eligible for exemption. As the facts would unveil, on 01.04.2006, Jharkhand Value Added Tax Act, 2005 (for brevity, "JVAT Act") came into force.
7. Prior to that, through a notification SO no. 202 dated 30.03.2006 issued under Section 7(3) of the 1981 Act, the State of Jharkhand had withdrawn notification nos. 478 and 479 dated 22.01.1995 and SO nos. 57 and 58 dated 02.03.2000 with immediate effect, as a result of which the facility of exemption from payment of sales tax on the purchase of raw materials and also facility of exemption of sales tax on its finished products was withdrawn.
8. On 30.03.2006, a notification bearing SO no. 202 under Section 8(5)(a) of the Central Sales Tax Act, 1956 was issued withdrawing notification no. 481 dated 22.12.1995. In the pursuance of the provisions of the Act, the respondent filed for deferment of tax on April 15th, 2005. The said application seeking deferment of tax was rejected vide order dated 05.05.2006. Though the 1st respondent filed the said application, it moved the High Court in W.P.(T) No. 2664 of 2006 challenging the constitutional validity of Section 95(3)(ii) and Section 96(3) of the JVAT Act.
9. The same was allowed by the division bench.

- **<u>ISSUE BEFORE THE COURT:</u>**

1. Whether the payment of tax deferred tax was made within the prescribed period?

➢ RATIO OF THE COURT:

1. The High Court, as is manifest, while quashing the notification nos. 201 and 202 had directed the State to grant deferment of tax to the 1st respondent under Section 95(3) (ii) of the JVAT Act. The court mentioned that the exemption was claimed and not granted, the 1st respondent had preferred an appeal by special leave but the same has already been disposed of. It has been fairly stated at the Bar that the issue that is seminal to the present lis is benefit of deferment and the period of repayment.
2. It was the admitted position that the assessee had collected the tax from the consumers for the period 01.04.2006 to 31.07.2008 and stopped collecting tax after 31.07.2008. It is pertinent to note here that on 12.07.2013, in IA No. 1 of 2013, the following order came to be passed the court had directed the payment of Rs. 186.70 cr in small amounts to the appellant applicant.
3. The singular issue for consideration was the interpretation of the deferment policy in the context of provisions enumerated under the JVAT Act. Section 95(3) (ii) envisages that a registered dealer who was enjoying the benefit of exemption of tax is allowed to convert the facility of exemption from payment of tax under the JVAT Act into the facility of deferment of payment of tax for the unexpired period. The assessee-company had availed the deferment and paid the amount of tax and the issue was that the assessee had failed to make the payment of deferred tax under the prescribed period.
4. The court examined the relevant paras of S.O No. 480 dated 22.12.1995 and referring the case of ***Hansraj Gordhandas v. H.H. Dave, Assistant Collector of Central Excise & Customs, Surat and Two ors*** relied upon by the respondent the court observed that that in a taxing statute there is no room for any intendment but regard must be had to the clear meaning of the words. The entire matter was governed wholly by the language of the notification.
5. It had also been held by the Constitution Bench, if the tax-payer is within the plain terms of the exemption, it cannot be denied its benefits by calling in aid any supposed intention of the exempting authority. The court relied upon ***Maunsell v. Olins; Utkal Contractors and Joinery Pvt. Ltd. and others v. State of Orissa and others and M/s Doypack Systems Pvt. Ltd. v. Union of India & others*** wherein it was laid down that Not infrequently one 'rule' points in one direction, another in a different direction. In each case we must look at all relevant circumstances and decide as a matter of judgment what weight to attach to any particular 'rule'."

6. In this regard, reference to ***Mahadeo Prasad Bais (Dead) vs. Income-Tax Officer 'A' Ward, Gorakhpur and another*** was made. In the said case, it was held that an interpretation which will result in an anomaly or absurdity should be avoided and where literal construction creates an anomaly, absurdity and discrimination, statute should be liberally construed even slightly straining the language so as to avoid the meaningless anomaly.
7. The first part of sub-para (1) of para 5 stipulates that the repayment of deferred tax amount shall have to be done after the completion of eligibility period of deferment or the prescribed percentage limit of fixed capital investment, whichever reaches earlier. In the case at hand, the period of exemption was converted to period of deferment of tax. It is for 8 years. There is no dispute that the assessee had availed the exemption for a period of 6 years and he is entitled to deferment of tax for the rest of the period which commenced in 2006. The notification lays a clear postulate that repayment of total deferred amount shall have to be done in ten equal six monthly instalments in such a manner so as to be completed within 13 years from the date of start of deferment.
8. The court observed that the words "from the date of start of deferment" have to have nexus with the policy stated in the beginning. The policy would apply if the unit has commenced between 01.09.1995 and 31.08.2000; that it has a registration certification from the prescribed authority and that, most importantly, it has been given an eligibility certificate for the said purpose. The policy would come into play only if these conditions are satisfied and then the assessee will be allowed to have the benefit of deferment of sales tax on the sale of manufactured finished goods for a prescribed period. Therefore, the authority has been given the power to lay down the prescribed period for grant of deferment.
9. The concept of exemption is distinct from the concept of deferment of tax. After the JVAT Act came into force, under the statutory provisions, there was no exemption and beneficiaries were entitled to convert to the scheme of deferment. The period remains intact, that is, 8 years. The repayment has to be done in equal six monthly instalments and that period is 5 years. The prescribed authority can grant an eligibility certificate but he has to keep in view the terms and conditions stipulated in the notification.
10. Thus analysed, the irresistible conclusion is that the repayment schedule has to end on 31.08.2013 within a span of 5 years from the expiration of the eligibility period.
11. The court also made it clear that the question of levy of penalty as envisaged under Rule 66 of the Rules should not be made applicable to the case at hand.

- **DECISION HELD BY THE COURT:**

The assessee-1st respondent had already deposited the amount in pursuance of the order of this Court and regard being had to the nature of litigation, we direct that the 1st respondent-assessee shall pay 12% interest *per annum* and the said amount shall be deposited with the competent authority of the revenue within three months hence.