

(2002) 02 RAJ CK 0015

In the Rajasthan High Court

Case No : Civil Writ Petition No's. 1631 and 1632 of 1998 and 4107 of 1999.

Commissioner, Commercial Taxes and Another

APPELLANT

Vs

Super Syncotex (India) Ltd. and Others

RESPONDENT

Date of Decision : 15-02-2002

Acts Referred:

Industries (Development and Regulation) Act, 1951 — Section 10, 11, 11A, 13
Rajasthan Sales Tax Act, 1954 — Section 4(2)

Citation : (2003) 2 RLW 1161 : (2003) 130 STC 186 : (2002) 5 WLN 363

Hon'ble Judges : Rajesh Balia, J; Harbans Lal, J

Bench : Division Bench

Advocate : Sangeet Lodha and Sanjeev Johari, for the Appellant; Rajendra Mehta and B.R. Mehta, for the Respondent

Final Decision : Dismissed

Judgement

1. These three writ petitions raise a common question about the interpretation of term "expansion" and the conditions to be fulfilled by the applicants thereunder for seeking benefits under the Rajasthan Sales Tax Incentive Scheme, 1987 or the Rajasthan Sales Tax New Incentive Scheme, 1989.

2. All the three applicants-respondents in the aforesaid petitions had applied for the sanction for issuing eligibility certificate before the State Level Screening Committee in respect of their expansions carried on by them in the respective existing industrial units engaged in the manufacture of yarn.

3. M/s. H.E.G. Ltd. has applied for the benefit under the Rajasthan Sales Tax Deferment Scheme, 1987 (Deferment Scheme 1987) whereas M/s. Reliance Chemotax Industries Ltd., has sought the benefit under the Rajasthan Sales Tax New Deferment Scheme, 1989 (for short, "New Deferment Scheme"), M/s. Super Syncotex (India) Ltd., has sought the benefit under the Rajasthan Sales Tax New Incentive Scheme, 1989 (for short, "New Incentive Scheme"). The definition of "expansion" of an industrial unit under the Incentive Scheme, 1987, or the New Incentive Scheme, 1989, or the Deferment Scheme, 1987, or the New Deferment

Scheme, 1989 remains the same. The schemes under which applications have been made in the present facts and circumstances of the case do not alter the character of the question and therefore these cases, we deem it convenient to hear together and decide by this common order. In fact, the Rajasthan Taxation Tribunal has also decided the cases of M/s. Super Syncotex (India) Ltd., and M/s. H.E.G. Ltd. by a common order whereas M/s. Reliance Chemotex Industries Ltd.'s case has been decided by a separate judgment by the Rajasthan Taxation Tribunal.

4. On application being made in this behalf by the respondents in respect of their respective units for grant of eligibility certificate under the schemes in question as an "expansion", the State Level Screening Committee has rejected their claims on the sole ground that they have not achieved the production to the extent of 25 per cent of the original "licensed and registered capacity" of the unit. The contention on behalf of the units has been that they have increased capital investment in the fixed capital investment by not less than 25 per cent of the net fixed assets of the existing projects. It is also not in dispute that in each case, the unit has achieved 25 per cent increase in production by at least increasing the production to the extent of at least 25 per cent of the existing production under the installed capacity and each of the unit has also achieved production at least 85 per cent of their existing installed capacity. The respective details in respect of all the three cases relating to fixed capital investment, the increase in production and the achievement in production up to at least 85 per cent of their capacity, stated in the petitions are also undisputed.

5. It is further not in dispute that all the three units in question were licenced under the Industries (Development and Regulation) Act, 1951 (hereinafter referred to as "Act of 1951") as was required of them under the provisions of Act of 1951. Since all the units are engaged in the activity of manufacturing yarn, the installed capacity in each case has been expressed in terms of number of spindles. In terms of the capacity permitted to be installed under the licence, each one of them has achieved installation of 85 per cent spindles of their capacity. In the aforesaid circumstances, the further fact, which is of relevance and about which there is no dispute, is that under the 1991 industrial policy statement of the Union of India, the industries in question are no more required to be licenced under the Act of 1951. In other words, since the adoption of the new industrial policy as per the policy statement in 1991, the industries like the respondents were not required to obtain the licence since 1991 at all. The existing licences became redundant for any future action.

6. In the aforesaid scenario, the contention of the petitioners--the Commercial Taxes Department and Industries Department is that none of the industrial units has installed new spindles to the extent so as to increase in 25 per cent spindles more than the maximum permissible capacity stated in their licences, they cannot be considered eligible for the benefit under the respective schemes. On the other hand, it has been the case on behalf of the units claiming benefit of the

scheme that since the abolition of licence system, the licenced capacity or the registered capacity no more exist with reference to which the required increase in the installed capacity and the actual production can be measured. It must necessarily relate to the existing production under the existing installed capacity and increase in the production with increase in the capacity to be installed/expanded.

7. While the State Level Screening Committee has rejected the claim of the respondents, the Tax Board allowed the applications of the respective respondents and directed issuance of eligibility certificate. On revision, the Rajasthan Taxation Tribunal agreed with the conclusions reached by the Rajasthan Tax Board and dismissed the revisions filed by the Revenue. Hence these writ petitions are before us.

8. It is now common ground between the parties that in pursuance of the orders under challenge, the eligibility certificate has in fact been issued to the respective applicants and they are availing of the benefit under the scheme.

9. In Writ Petition No. 1632 of 1998 the respondent M/s. Super Syncotex Ltd., made an application for availing of the benefit under the New Incentive Scheme, 1989 on 25th August, 1995 as an expansion unit.

10. In Writ Petition No. 1631 of 1998, respondent M/s. H.E.G. Ltd., applied for eligibility certificate as an expansion unit on 28th May, 1994 under the Sales Tax Deferment Scheme, 1987.

11. In Writ Petition No. 4107 of 1999, respondent M/s. Reliance Chemotex Industries Ltd. made its application for availing of benefit under the New Deferment Scheme, 1989 as an expansion unit on 28th August, 1996.

12. It may be noticed that all applications for availing of the benefit under different schemes have been made long after the licensing system was abolished in 1991 as was prevalent under the Industries (Development and Regulation) Act, 1951 and licensing of industries in each case has long been dispensed with.

13. Another feature which is to be noticed is that in each case the applicant had increased in their value of fixed capital investment in excess of 25 per cent of the net assets of their existing project and also achieved an increase in production exceeding 25 per cent of their installed capacity before filing of the application.

14. The bone of contention centres around the expression used in the definition of "expansion" which is uniform so far as present purpose is concerned in all the three schemes, referred to above, and also under the Rajasthan Incentive Scheme, 1987. Therefore, for convenience sake, we will reproduce only one definition from Rajasthan Sales Tax Deferment Scheme for Industries, 1987, which is provided in Clause 2(f) of the Deferment Scheme, 1987. We may notice that the definition of "expansion unit" in Rajasthan Sales Tax Incentive Scheme for Industries, 1987, or Rajasthan Sales Tax Deferment Scheme for Industries, 1987, or Rajasthan Sales Tax New Incentive Scheme for Industries, 1989 or the

Rajasthan Sales Tax New Deferment Scheme, 1989 is contained in respective Clause 2(f) of the schemes. The relevant provision reads as under :

"Expansion" means increase in the value of fixed capital investment by not less than 25 per cent of the net fixed assets of the existing projects, and accompanied by an increase in the production to the extent of at least 25 per cent of the original licensed/registered capacity.

Explanation.--The benefits of deferment scheme for expansion projects will be admissible to the eligible units only after they have achieved at least 85 per cent of their licensed/registered capacity before expansion."

15. Before proceeding further, it would be relevant to notice the chronology of the incentive schemes operating in the field of granting exemption/deferment benefits to the new installed capacities within the State whether by way of installing a new industry or by installing additional capacity over and above the existing capacity by way of expansion or by installing new capacity in different goods by diversification by an existing industrial unit.

16. In the first instance, the Government provided the incentive under 1985 Dispensations by making available to the new industrial units interest-free loans against the tax burden. By issuing a notification u/s 4(2) of the Rajasthan Sales Tax Act on 23rd May, 1987, the Rajasthan Sales Tax Incentive Scheme for Industries, 1987 was brought into effect with effect from 5th March, 1987. While bringing into force this incentive scheme, the industrial unit, which had commenced commercial production on or after April 1, 1985 and was entitled for interest-free loan under the 1985 Dispensation Scheme, was included in the category of industrial units to whom the benefit of incentive was extended. Otherwise, the incentive was confined to the industrial units which commenced commercial production during the operative period of the incentive scheme. Such benefit was also made available to the expansions and diversifications brought into existence during the operative period of the scheme. Thus, continuity of the benefit made available to the units under the 1985 Dispensations under the New Incentive Scheme to avail of the benefit thereunder was continued. In addition to industries set up under 1985 Dispensations and new production capacities coupled with new capital investments in fixed assets set up during the operative period of the scheme, certain concessions were also extended to sick industrial units.

17. After promulgating the Tax Incentive Scheme, 1987, the Rajasthan Sales Tax Deferment Scheme for Industries, 1987 was notified by notification dated 29th September, 1987 which also was made operative retrospectively with effect from 5th March, 1987 and dealt with in the like manner with the new industrial unit covered by 1985 Dispensations, new industrial unit's expansions and diversification set up during operative period of the deferment scheme was co-extensive with incentive scheme. It may be noticed that by extending the period of its operation from time to time the Incentive Scheme, 1987 as well as the

Deferment Scheme, 1987 continued to operate until 31st March, 1997.

18. During the continuance of the Rajasthan Sales Tax Incentive/Deferment Schemes of 1987 under the Rajasthan Sales Tax Act as well as Central Sales Tax Act, the Government of Rajasthan brought into effect a new scheme called the Rajasthan Sales Tax New Incentive Scheme for Industries, 1989 as well as the New Deferment Scheme, 1989 vide notifications dated July 6, 1987 and these schemes were also made operative retrospectively with effect from the date from which the Incentive Scheme, 1987/Deferment Scheme was operative that is to say 5th March, 1987. The operative period of these new incentive schemes of 1989 was finally extended up to 31st March, 1998. The new scheme provided certain variations and improvements from the 1987 Schemes. Nonetheless, with the commencement of the new scheme 1989, the Schemes of 1987, whether of incentive or deferment, were not repealed but both continued to operate simultaneously. Under the 1989 Scheme, the benefit of the 1989 Scheme was not extended to the 1985 Dispensations but other industrial units if covered by Sales Tax Incentive Scheme for Industries, 1987 or under the Deferment Scheme of 1987 were given option to seek the benefit under the new incentive scheme. Even applicants, whose applications under the incentive/ deferment scheme had been rejected on the ground of limitation or were pending before the Screening Committee, were given the option to opt for either of the schemes under which they wanted to avail of the benefit. The industrial units which had been granted sanction for availing of the benefit under the old incentive/deferment scheme, were also given the option to switch over to the new scheme. This only goes to show that the New Incentive Scheme, 1989 was in continuation of the Schemes of 1987 with the same object and purpose for extending benefit of tax concession/benefits to the new installed capacity within the State.

19. In the context of the present controversy, it is relevant to notice that on coming into close the period of operation of 1987 schemes and New Incentive Scheme, 1989 on 31st March 1998, finally the two schemes, namely, the Rajasthan Sales Tax/Central Sales Tax Exemption Scheme, 1998 and the Rajasthan Sales Tax/ Central Sales Tax Deferment Scheme, 1998 were promulgated to become operative with effect from April 1, 1998. The "expansion unit" under the Scheme of 1998 was also included in the category of the units which could avail the benefit under those schemes. The definition of "expansion" under the two schemes of 1998 was given in Clause 2(g) of the respective schemes. When 1998 Scheme has come into existence, the provision of establishing an industry and its functioning under the Industries (Development and Regulation) Act, 1951 had already been given the go-by in 1991 and it was clearly reflected in the definition of "expansion", which reads as under :--

"2(g) "Expansion" means the increase in the value of fixed capital investment by not less than 25 per cent of the net fixed assets of the original project and accompanied by an increase in the production to the extent of at least 25 per cent of the installed capacity. However, for second or subsequent expansion, the

fixed capital investment in the original project together with the investment(s) up to the immediate preceding expansion, shall be considered as the basis for the purpose of the proposed expansion.

Explanations.--I. The benefits of expansion under this scheme shall be admissible to the eligible units only after they have achieved and actually utilised at least 80 per cent of their installed capacity in an immediately preceding one completed year before making investment on expansion.

II. The benefits for expansion under this scheme shall be available only on the production in excess of 80 per cent of the installed capacity."

20. It is true that ordinarily a subsequent enactment whether of a parent Legislature or subordinate Legislature cannot control and be of any aid in interpreting the provisions of a statute which has come into existence earlier thereto but the well-known exception to the rule is that where the subsequent enactment is not on a different field but is rather in continuation of the repealed or earlier provisions to operate on the same field and what was latent or absurdity in the earlier statute becomes clearer, the aid can be taken to find out the true meaning of language used in earlier provisions and to give it a meaning which is in consonance with the object sought to be achieved through such legislative document and make such provisions workable in furtherance of such object.

21. Even otherwise, the principle is well-established that where the language of a statute in its ordinary meaning and grammatical construction leads to a manifest contradiction of the apparent purpose of the enactment, or to some inconvenience or absurdity, hardship or injustice, presumably not intended, a construction may be put upon it which modifies the meaning of the words, and even the structure of the sentence. Where the main object and intention of a statute are clear, it may be reduced to a nullity by the draftsman's unskilfulness or ignorance of the law, except in a case of necessity, of the absolute intractability of the language used. Nevertheless, the courts are very reluctant to substitute words in a statute, or to add words to it, and it has been said that they will only do so where there is a repugnancy to good sense. The principle was stated by Lord Denning in *Seaford Court Estates v. Asher* (1949) 2 All ER 155 spelling out the task of a Judge in interpreting a statute which is ambiguous or leading to a result which is in conflict with the object of the statute :

"When a defect appears, a Judge cannot simply fold his hands and blame the draftsman. He must set to work on the constructive task of finding the intention of Parliament.....and then he must supplement the written word so as to give "force and life" to the intention of the Legislature..... A Judge should ask himself the question how, if the makers of the Act had themselves come across this ruck in the texture of it, they would have straightened it out ? He must then do as they would have done. A Judge must not alter the material of which the Act is woven, but he can and should iron out the creases."

22. The principle though was not accepted by the House of Lords in England, found approval by the Supreme Court of India when Sarkar, J. speaking for Constitution Bench in *M. Pentiah and Others Vs. Muddala Veeramallappa and Others*, adopted the aforesaid reasoning of Lord Denning. The principle was again reiterated and approved by Beg, C.J. in *Bangalore Water Supply and Sewerage Board Vs. A. Rajappa and Others*,

P123. Subba Rao, Chief Justice, speaking for the court in *Chandra Mohan v. State of Uttar Pradesh* AIR 1966 SC 1987 had said : "The fundamental rule of interpretation is the same whether one construes the provisions of the Constitution or an Act of Parliament, namely, that the court will have to find out the expressed intention from the words of the Constitution or the Act, as the case may be. But, if, however, two constructions are possible then the court must adopt that which will ensure smooth and harmonious working of the Constitution and eschew, the other which will lead to absurdity or give rise to practical inconvenience or make well-established provisions of existing law nugatory." 24. We may not multiply the reiteration of principle in number of other decisions. In the present case, the difficulty pointed out in accepting the literal expression arise from the fact that the term licence/register has not been defined in the Sales Tax Act or the scheme itself where the expression has been used. We had required of learned counsel for the Revenue to throw light on the provisions under which the licensing or registration of an industry vis-a-vis its production capacity is required specifically vis-a-vis taxing statute or generally under industrial policy of the State. He was candid enough to say he has not been able to lay his hands on any material under which by any law framed by the State in connection with its industrial policy which required licensing or registering of the production capacity to which it could be related. 25. In these circumstances, in our opinion, the obvious reference of licence/registered capacity mentioned in the definition of "expansion" under 1987 and 1989 Schemes can be referable to the provisions of the Industries (Development and Regulation) Act, 1951 which was promulgated with the object of regulating the national resources through means of industrial exploitation by providing for licensing and registering of industries. The Act of 1951 was applicable only to the industries specified in the First Schedule appended to the Act. Thus, the licensing of industries was not a universal fact in respect of all industries but could only be in respect of industries specified in First Schedule. In this context, it is not the case of anyone nor it cannot be doubted that the incentive scheme whether of 1987 or of 1989 or of 1998 is not confined for the purpose of extending benefit only to the industries which required licence under the IDR Act but extends to all new industrial units set up, expansion carried out of any industrial unit and diversification made by any industrial unit, which are engaged in manufacture of goods within the eligible areas within the State of Rajasthan. In other words, except the units engaged in ineligible industry and set up in banned area came under the umbrella of incentive/deferment scheme. 26. Under the Act of 1951, registration is also not required of all the industries except the industries which are covered thereunder.

The "registration" was required only of the existing industrial undertakings. The expression "existing industrial undertakings" was inserted in the Act of 1951 by the Industries (Development and Regulation) Act, 1953 on October 1, 1953 which reads as under : "(bb) "existing industrial undertaking" means-- (a) in the case of an industrial undertaking pertaining to any of the industries specified in the First Schedule as originally enacted, an industrial undertaking which was in existence on the commencement of this Act or for the establishment of which effective steps had been taken before such commencement ; and (b) in the case of an industrial undertaking pertaining to any of the industries added to the First Schedule by an amendment thereof, an industrial undertaking which is in existence on the coming into force of such amendment or for the establishment of which effective steps had been taken before the coming into force of such amend-ment." 27. Section 10 required the registration of such existing industrial undertakings in the prescribed manner and under Sub-section (3) it was provided that the certificate of registration shall be issued containing the production capacity of the industrial undertaking and such other particulars that may be prescribed. Thus, obviously, "the registered capacity" referred to the installed capacity only as on the date. 28. Section 11 required for licensing of an undertaking which was to be established after the commencement of the Act or after inclusion of industry in the Schedule was to furnish particular. So far as the Act is concerned, it does not provide for "licensing capacity to be installed" as a part of licence, but only provides that a condition may be provided under the rules about the location of the undertaking and the minimum standards in respect of size of the industry and Section 11-A provides for licensing of a new product and does not concern with the licensing capacity. The Industries Registration and Licencing Rules, 1962 provides a procedure for registering and licensing the industries as may be required under the Act and the format of application provided the information to be furnished about the proposed capacity to be installed whether new or under expansion. In this connection, the provisions of Section 13 become relevant to be noticed which in no uncertain terms provide in Clause (d) of Sub-section (1) that no owner of an industrial undertaking, other than the Central Government, shall effect any "substantial expansion" of an industrial undertaking which has been registered or in respect of which a licence or permission has been issued except under, and in accordance with, a licence issued in that behalf by the Central Government, and, in the case of a State Government, except under and in accordance with the previous permission of the Central Government. The explanation to Section 13(1) further clarifies what is meant by expression "substantial expansion". According to the explanation, it means the "expansion of an existing industrial undertaking which substantially increases the productive capacity of the undertaking, or which is of such a nature as to amount virtually to a new industrial undertaking, but does not include any such expansion as is normal to the undertaking having regard to its nature and the circumstances relating to such expansion". 29. It is pertinent to notice that even if a licenced undertaking, if it wanted to indulge into a substantial expansion, it will have to apply for licence to carry out substantial

expansion through substantive increase in installed capacity as well as addition in production. These have relation to existing state of affairs and not to the desired capacity entered in the licence form. The substantial expansion obviously does not include the expansions which are carried out in the ordinary course of business day to day but refers to where the increase in the existing capacity is substantial then certainly it is required the fresh licensing. In other words, substantial expansion under the licence is also relatable to the existing installed capacity and existing productions under the statute governing licensing. 30. This also indicates that for all practical purposes the licence issued under IDR Act protects the capacity installed thereunder, and does not permit to add and install additional capacity to existing capacities under the maximum limit of capacity entered in the licence but it is required for any expansion, which results in addition or increase in existing installed capacity substantially--which is more than expected during the course of day to day operations--by substantial increase in capital investment, which a licence holder proposes, that he secures a new licence for such purpose. Therefore, if an entrepreneur who holds a licence of much larger capacity than the capacity he has installed thereunder, he cannot use such licence to carry out substantial expansion over it, but he needed a new licence. This restricts the efficacy of original licence to only capacity installed thereunder in the first instance, with such increase which results in day to day carrying on of business and does not include such increases which may fall in the category of substantial expansion indicating substantial increase in fixed capital investment to achieve sufficiently substantial increase in existing capacity of production. What is the limit of substantial increase in production and capital investment, depends upon the scheme under which such expansion is carried out. 31. Viewed in the above light, if we examine the scheme under the incentive/deferment schemes of 1987 and 1989, it is apparent that for extending benefit of expansion, the Government has in mind the substantial expansion which only would qualify for benefit and not the expansions carried out in ordinary course of conducting business. This explains that a provision has been made that there must be at least 25 per cent increase in the fixed capital investment over and above the existing value of the fixed assets and also it should obtain at least 25 per cent increase in its production capacity in the context of substantial expansion envisaged. If we draw any inference from IDR Act which refers to the installed capacity under the licence or registration as the case may be, it cannot have a reference to any other factor if a workable meaning is to be assigned to the term "original licenced or registered capacity" except to capacity already installed under a licence or installed capacity already registered it. 32. It may be noticed that if licensed and registered capacity has reference to any fixed criterion as has been urged by the Revenue, then many of the unregistered and unlicensed industries will be prevented from availing benefit of the scheme (because in their cases there will be no licence or registered capacity). A result which is not envisaged even according to Revenue. 33. Moreover, in the present circumstances when licensing procedure has been abandoned, the scheme which is operative until 1998, an industry which has been established under a licence of

the same installed capacity with the same capital investment will receive differential treatment than the like industry which has been established thereafter manufacturing the same commodity with the same fixed capital investment for which no licence was required. That result obviously could not be attributed to the intention of extending scheme of incentive or deferment under the Rajasthan Sales Tax Act, 1954 to expansions or diversification carried out during the operative period of the scheme. The intention that it referred to in either case to the installed capacity, is gathered from the fact that though incentive scheme 1987 was continued up to March 31, 1997, and New Incentive/Deferment Scheme, 1989 was continued up to March 31, 1998 which had been extended to all units covered under 1987 Schemes except in the case of units covered under 1985 Dispensations ; yet, such incentives have been continued to same class of industries, which bringing new capital investment with increase in production capacity in State of Rajasthan, under the Incentive Scheme, 1998 and Deferment Scheme, 1998, without hiatus with effect from April 1, 1998. Scheme of 1998 was the first scheme promulgated after the abandoning of the licensing provision and the registering provision under the IDR Act. It made no mention of registered and licence capacity while defining the expression "expansion" under Clause 2(g) of the scheme but clearly referred to the "increase in installed capacity" making it more clear and unambiguous vide Explanation I. In other respects the definition of "expansion" remained the same as before. 34. Therefore, in the totality, all the schemes were in further-ance of the same object, firstly by way of 1985 Dispensations and thereafter successive schemes called as Incentive/Deferment Schemes, 1987 or New Incentive/Deferment Scheme of 1989 and Incentive/ Deferment Scheme of 1998 extending different types of benefits under the schemes depending on the option of the industrial units desirous of availing of such benefits. In the context of the schemes in question and its object, the expression "licenced/registered capacity" under Clause 2(f) of the respective Schemes of 1987 and 1989 respectively, can have reference only to the existing installed capacity with regular expansion, in the ordinary conduct of business from day to day, under the licensed or installed capacity as registered under IDR Act at the time when benefit of expansion is claimed. Yardstick of increase in fixed capital investment and increase in production which may qualify it for a "substantial expansion" has been laid under the scheme as noticed above. If any other view is taken, then it must be held that until 1998 vast majority of industries, which were not intended to be excluded shall remain excluded merely because at the time when they had applied for an industrial licence under IDR Act, had projected a futuristic vision of much larger capital outlay with much larger capacity notwithstanding immediate project was only for much smaller installed capacity with moderate capital outlay and future expansion depended on obtaining a licence for any substantial expansion. 35. It is also apparent from the licences issued in the case of each of the applicants that while entering the details about the installed capacity, they were required to show installed capacity in a phased manner. If that be so, it must be further noticed that as and when they wanted any further substantial

addition in terms of Section 13(l)(d) of the IDR Act in their actual installed capacity even under the licence, they were again required to apply for licence for substantial expansion notwithstanding such capacity was within the licensed capacity entered in the licence. 36. Moreover, it may be noticed that when Incentive Scheme, 1987 was first introduced with effect from April 1, 1987, it was operative only up to March 31, 1992. Thereafter all extension of scheme were made by different notifications issued from time to time. At the time of even first extension of operative period, the necessity of licence for establishing a new industry or expansion or diversification had ceased to exist and there remained to nexus with the "licensed capacity" in its technical sense suggested by Revenue with object sought to be achieved with the continued incentive/deferment schemes. Therefore, the scheme is required to be looked into in the light of changed circumstances at least since extension of the existing scheme from time to time until March 31, 1998 and ultimately while continuing incentive/deferment to expansions also along with other units with effect from April 1, 1998 it was clarified the position by using the right phrase in terms of changed industrial policy whereunder licensing was not required. 37. We are, therefore, in agreement with the Tribunal that the State Level Screening Committee was in error in not considering the applicants in each case to be eligible merely because increase in their production did not correspond to the proposed installed capacity entered in their licences issued under IDR Act. There is no dispute that as against installed capacity and existing fixed capital investment, all the applicants fulfilled the criterion under the schemes under which they applied. 38. As a result, these writ petitions fail and are hereby dismissed. No orders as to costs. Petitions dismissed.