

(2005) 09 KAR CK 0088
In the Karnataka High Court
Case No : Writ Petition No. 26791 of 2001

Kirloskar Ferrous Industries Ltd.

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 09-09-2005

Acts Referred:

Karnataka Sales Tax Act, 1957 — Section 12 B, 5 (3) (b), 5 A, 5 A (1), 5 A (2)

Citation : (2007) 8 VST 519

Hon'ble Judges : D.V. Shylendra Kumar, J

Bench : Single Bench

Advocate : G. Sarangan for R. Ramamurthy and Kashimath H. Kalmath, for the Appellant; T.K. Vedamurthy, High Court Government Pleader, for the Respondent

Judgement

D.V. Shylendra Kumar, J.—This writ petition is being heard at length on several days, including on August 25, 2005 and while adjourning the matter for further hearing, I had noticed the following position:

2. Writ petition is by a company which is a dealer under the provisions of the Karnataka Sales Tax Act, 1957 (for short, "the Act").

3. The petitioner in the course of its activity purchases iron ore from the miners, some of whom may also be registered dealers, some may not be, and claims that the iron ore is consumed for the production of pig iron which is the end-product in its manufacturing unit and sold.

4. Iron ore is "goods" within the meaning of the phrase as it occurs under the Act and is subjected to tax at the first purchase point in terms of Section 5(3)(b) of the Act read with item 1 of the Third Schedule to the Act. The rate of tax for the relevant period, i.e., from April 1, 2001 to March 31, 2002 with which alone we are concerned, was at 10 per cent of the purchase turnover.

5. The petitioner wanted to make benefits as was available to such of those manufacturers who have the units in the State and who produce finished products from out of raw materials which are subjected to tax in terms of the

provisions of Section 5A of the Act.

6. It is the claim of the petitioner that the petitioner has been availing of such concessions u/s 5A of the Act for several years and that the provisions of Section 5A had also undergone many legislative corrections; that while all along, concession had been claimed by the petitioner which it appears had been denied to it for the reason that the petitioner had not been able to secure certain compliance in accordance with the procedure prescribed for availing such concessions, etc.

7. However, insofar as the provisions of Section 5A as were amended by Act 5 of 2001 and applicable for the period April 1, 2001 to March 31, 2002 are concerned, the petitioner felt that though the main part of Section 5A of the Act extended certain concessions even to a dealer like the petitioner, the proviso to Sub-section (2) of Section 5A of the Act sought to disentitle the benefit or deprive the benefit to the petitioner by prescribing a condition which was impossible of compliance by a person like the petitioner and therefore has thought it fit to question the legality or constitutional validity of this proviso by filing this writ petition before this court and sought for a declaration that the proviso should be read as not operative or virtually non-existent; that it is cross-purposes with the main provision as it runs counter to the main provision and the benefit extended by a main provision is sought to be denied under the proviso by a condition which could not only bring about a discrimination, but also one incapable of compliance which should be read down as any condition in the eye of law and the petitioner should be remanded to avail of such concession as though the proviso does not exist in the eye of law and for such purpose, the present writ petition is filed.

8. On issue of rule, the respondents have entered appearance and filed their statement of objections also. What is contended principally is that the petitioner does not qualify at all for concession u/s 5A of the Act as it stood for the relevant period.

9. It is pointed out that the benefit is extended to only such dealers who by themselves have purchased raw materials from another registered dealer and not to purchase from an unregistered dealer and the petitioner having not made any purchase from a registered dealer in respect of which it is seeking concession, provision is not attracted to extend any benefit to the petitioner.

10. It is also contended that the benefit that is sought to be extended u/s 5A is only with reference to sales tax liability, in the sense that sales tax paid by a registered dealer who is a manufacturer and with reference to such payments, certain reimbursements are contemplated and no concession is contemplated vis-a-vis purchase tax liability. It is also urged that the petitioner being not even eligible or qualifying u/s 5A cannot question the legality or otherwise of any part of this section including the proviso; that the petitioner having not been extended any concession under this provision hitherto and even in terms of

language of Section 5A as is applicable for the relevant period also, the petitioner is not qualifying for getting such benefits ; that there is no question of granting any declaration for the benefit of the petitioner either to interpret the provisions of Section 5A in such a manner that the proviso does not operate or to understand the section excluding the proviso.

11. I have heard Sri Sarangan, learned Senior Counsel appearing for the petitioner and Sri Vedamurthy, learned Government Pleader appearing for the respondent.

12. Learned Senior Counsel for the petitioner has drawn my attention to the provisions of Section 5A as it stood at the relevant point of time which read as under:

5-A. Taxation of indus trial inputs. - (1) Notwithstanding anything contained in Section 5, the tax payable by a registered dealer, in respect of the sale of any indus trial input liable to tax under the Act to another registered dealer for use by the latter as a component part or raw material or packing material of any other goods which he intends to manufacture inside the State for sale or in respect of sale of consumables liable to tax under the Act to another registered dealer for use in such manufacture, shall be at the rate of four per cent or the rate specified in Section 5, whichever is lower, on the taxable turnover relating to such sale:

Provided that where the rate of tax in respect of such industrial input as specified in Section 5 is four per cent and above, the provisions of this sub-section shall not apply, unless the dealer selling the industrial inputs furnishes to his assessing authority in the prescribed manner a declaration by the buying dealer in the prescribed form obtained from the prescribed authority or where the buying dealer's total turnover for the year ending thirty-first day of March, 2001 as declared in the return for such period exceeds one hundred lakhs rupees, such buying dealer shall give a declaration in such form and in such manner as may be prescribed:

Provided further that if any dealer, after purchasing any inputs, in respect of which he has furnished a declaration under the first proviso to this sub-section fails to make use of the whole or part of such inputs in the manufacture of other goods specified in the declaration before the expiry of the accounting year immediately succeeding the one in which such inputs are purchased, either due to cessation of his manufacturing activity or for any other reason, but has not sold away such inputs, he shall be liable to pay the difference between the tax payable at the rate specified u/s 5 and the tax computed at the rate of four per cent on the turnover relating to the sale of such quantity of these inputs to him as have remained unutilised with him for the declared purpose at the end of the period specified above.

(2) Notwithstanding anything contained in Clause (b) of Sub-section (3) of Section 5 or Section 6, the tax payable by a registered dealer in respect of the

purchase of any industrial input liable to tax under the Act for use by him as a component part or raw material or packing material of any other goods which he intends to manufacture inside the State for sale shall be at the rate of four per cent or the rate specified in Section 5, whichever is lower, on the taxable turnover relating to such purchase.

(3) If any person,

(i) not having his manufacturing unit inside the State, purchases any inputs by furnishing a declaration under the first proviso to Sub-section (1) or pays tax on purchase of inputs under Sub-section (2); or

(ii) having his manufacturing unit inside the State and having purchased any inputs by furnishing a declaration under the first proviso to Sub-section (1) or paying tax on purchase of any inputs under Sub-section (2), sells away such inputs contrary to such declaration or condition,

the assessing authority, after giving such person a reasonable opportunity of being heard, shall, by order in writing, impose upon him by way of penalty a sum, which shall not be less than the amount of tax leviable u/s 5 on the sale of the inputs so purchased or tax leviable under Clause (b) of Sub-section (3) of Section 5 or Section 6 on the inputs so purchased, but which shall not exceed one and half times the amount of such tax ;

(iii) having his manufacturing unit inside the State and having purchased any inputs by furnishing a declaration under first proviso to Sub-section (1) or having paid tax on any inputs under Sub-section (2), uses such inputs contrary to such declaration or, the assessing authority, after giving such person a reasonable opportunity of being heard, shall, by order in writing, impose upon him by way of penalty a sum which shall not be less than twice the amount of tax leviable u/s 5 or 6 but not exceeding two and half times the amount of such tax on the inputs so purchased:

[Provided that no penalty shall be levied under this sub-section after a period of eight years from the close of the year to which the purchase relates.]

(4)(a) Every dealer who, during the course of the year, purchases any inputs by furnishing a declaration under the first proviso to Sub-section (1), shall maintain in the prescribed manner a regular account of the receipt and issue of such declaration forms as are received or issued by him.

(b) Every such dealer shall also submit a statement as prescribed containing particulars of such purchases in any month to the assessing authority along with the statement to be submitted u/s 12B.

(c) Every such dealer shall also maintain in the prescribed manner an account giving the opening balance, purchases, consumption and closing balance of every input, which is purchased by him by furnishing a declaration under the first proviso to Sub-section (1) or purchased by him under Sub-section (2).

(d) If any dealer fails to maintain, in the prescribed manner, true and complete accounts or submit a statement as required by Clause (a) or Clause (b) or Clause (c) of this sub-section, the assessing authority shall, after giving such dealer a reasonable opportunity of being heard, pass an order,

(i) disentitling such dealer from making use of any declaration forms prescribed under the first proviso to Sub-section (1) and requiring him to surrender forthwith the declaration forms already issued to him, if any or disentitling such dealer to pay tax on inputs under Sub-section (2); and

(ii) imposing upon him a penalty not below one-half of the amount of tax payable but not exceeding the amount of tax leviable, under the provisions of Section 5 on the sale value of the inputs already purchased by him against prescribed declaration forms up to the date of surrender of the unused forms by him or under the provision of Section 5 or Section 6 on the purchase value of inputs already purchased by him under Sub-section (2) up to the date of disentitlement.

(e) If any dealer, in respect of whom an order has been passed under Clause (d) of this sub-section, pays the penalty and complies with other terms of such order, the assessing authority may, in his discretion, permit such dealer, to obtain the prescribed declaration forms afresh or issue the prescribed declaration forms and to make use of the same for the purchase of inputs in the State at concessional rate of tax or to pay tax under Sub-section (2) on purchase of inputs:

[Provided that no penalty shall be levied under this sub-section after a period of eight years from the close of the year to which the purchase relates.]

Explanation. - (1) For the purpose of this section, the expressions "industrial inputs" or inputs, mean either a "component part" or "raw material" or packing material, but do not include cement, and inputs falling under Serial Number 12 of Part "S" and Serial Number 10 of Part "M" of the Second Schedule.

(2) The expression "component part" means an article which forms an identifiable constituent of the finished product and which along with others, goes to make up the finished product.

(3) The expression "raw material" means any material,

(a) from which another product can be made, through the process of manufacture, either by itself or in combination with other raw materials; or

(b) a processing or any other chemical solvent (including chemicals used for testing, analysis or research) used in the solvent extraction process or a catalyst required in the manufacturing process, but it does not include fuels, and consumable stores of similar type.

(4) The expression "consumables" does not include petroleum products falling under Serial Number 11-A of Part "F, Serial Number 12 of Part "M" and Serial Number 5 of Part "P" of Second Schedule.

13. What is submitted is that the petitioner fully qualifies under the main provision being a registered dealer and who has been making use of the industrial input purchased by him for producing finished product which again is sold within the State and it suffers tax; that the whole object of Section 5A was to encourage the industrial growth in the State; that the concession was sought to be extended in respect of the tax liability of such manufacturers in respect of their inputs making use of which they produce some finished product and again bring revenue to the State when the finished product is sold; that to encourage more and more capital investment to such industries and for achieving industrial growth, tax on inputs was sought to be pegged down to a maximum of four per cent or even under the main charging section, i.e., Section 5 of the Act which was at that very rate and if that is the object, the manufacturer, whether he pays such tax on the inputs by way of sales tax liability when he purchases from a dealer in whose hands the raw material is taxed at the point of sale, or pays the tax by himself in a situation where, as in the case of the petitioner, the raw material is subjected to tax at the purchase point, in which event, instead of the tax being paid to the State through the medium of another dealer, the petitioner himself pays it directly to the State, but, nevertheless, suffers that liability and ultimately by making use of it, produces a finished product which on sale by the petitioner again suffers tax and therefore the benefit which is extended in respect of such purchasers under the main provision of Section 5A should not be denied by introducing such conditions; that it is virtually denied to such manufacturers who pay tax on the raw materials at the purchase point whereas such concession is nevertheless extended to such manufacturers who have paid sales tax at the point of sale on the very raw material that they consumed and the effect of the proviso being precisely that; that the petitioner is deprived of the benefit only because of the proviso ; that the proviso should be held to be inconsistent with the main provision, totally denying the benefit and accordingly interpretation of Section 5A of the Act should be such that as to extend the benefit to a person who otherwise qualifies under the main provision so that the object of the very section is achieved and is not totally defeated.

Further order dictated on September 9, 2005.

14. What is principally contended by Sri G. Sarangan, learned Senior Counsel appearing for the petitioner, is that while the provisions of Section 5A of the Act as it stood for the period April 1, 2001 to March 31, 2002 did extend a benefit to persons like the petitioners in terms of Sub-section (1) of Section 5A and even when the petitioner has fully complied with the requirement under this sub-section, the petitioner is stumped and denied the benefit only by the inarticulate provision, namely, the first proviso to this section, wherein due to sheer impossibility of compliance with a condition imposed therein, the petitioner is sought to be deprived of the concession or what is known as the reimbursement of tax to which he had become eligible under Sub-section (1) of Section 5A of the Act. What is pointed out is that the provisions of Section 5A itself has been one which is provided under the statute book for the purpose of extending a benefit

or a concession in respect of such dealers, who while carrying on an industrial activity have to purchase raw materials/inputs which are utilised for manufacturing end-products which when sold attract levy of tax u/s 5 of the Act, and when the raw material is purchased and such purchase being from a registered dealer, then a concession is sought to be extended to such manufacturer to the extent that the tax paid at the purchase point under the provisions of Section 5 is sought to be either reimbursed by way of adjustment or insofar as it is in excess of levy over and above and in the case of declared goods what was paid over three per cent and in case of other goods, what was paid in excess of two per cent.

15. Learned Senior Counsel submits that while even when the petitioner has fully complied with all the requirements of Section 5A(1), viz., the petitioner himself being a registered dealer, purchase being from registered dealers, who are suppliers of iron ore and tax is also paid u/s 5 of the Act at the purchase point and further the manufactured goods is also sold by the petitioner and that attract levy u/s 5, as in the case of the petitioner the goods itself being a declared goods subject to levy in terms of the Fourth Schedule as what is sold is a declared goods, nevertheless such benefit of reimbursement is sought to be denied only because the petitioner is not able to produce what is known as a bill or cash memorandum issued by the seller showing separately the amount collected by way of tax as in terms of the proviso referred to above.

16. Learned Senior Counsel further submits that in the case of a person like the petitioner, as the levy is at the purchase point, selling dealer does not either collect any tax nor remit it and therefore the question of the selling dealer issuing a bill or cash memorandum indicating separately the amount collected by way of tax does not arise, but instead, such tax is paid by the petitioner itself being at the purchase point and directly remitted to the Government and the effect is that the petitioner in spite of remitting the tax which is borne by it instead of through the selling dealer remitted it to the Government, bears the burden of tax by itself at the purchase point as well as remits the tax at the sale point and therefore remitting the tax by itself on both occasions. Learned Senior Counsel points out that while the proviso does not seek to play or run counter to the main provision of Sub-section (1) of Section 5A, in a situation where the levy is at the sale point and therefore the compliance with the proviso is undoubtedly a reality, in a situation where the levy is at the purchase point, and tax is levied u/s 5(3)(b). While the purchase tax is paid by the purchasing dealer, which is attracted u/s 5 of the Act at that point, it is remitted by the purchaser himself and not through the seller.

17. It is in such circumstance, the petitioner is before this court seeking a declaration to hold that the proviso is running contrary to the main section ; should be held to be not operative, particularly in a situation where the levy u/s 5(3)(b) of the Act when the manufacturer purchases at the purchase point.

18. Sri T.K. Vedamurthy, learned Government Pleader appearing for the

respondent, has very strongly defended the correctness of the levy, the correctness of the provision and the condition as imposed under the proviso. Submission of Sri Vedamurthy is that the entire Section 5A should be read as a whole including the proviso and if the proviso has imposed a condition, the condition on compliance of which alone the petitioner can seek the benefit under Sub-section (1) of Section 5A of the Act, then it is as simple as such a person not getting the benefit and, therefore, if the petitioner does not comply with the condition it does not get the benefit and there is no question of the section being either rewritten or interpreted in any other manner so as to extend the benefit to a person like the petitioner, which is not contemplated under the section itself.

19. In this regard, learned Government Pleader places reliance on the decision of a Division Bench of this court in the case of Vasavadatta Cements Vs. Karnataka Appellate Tribunal and Others, . The submission of the learned Government Pleader, placing reliance on this decision, is that in a situation where the levy of tax u/s 5(3)(b) of the Act is at the purchase point, there is no concession sought to be extended to such transaction and therefore the petitioner cannot claim any benefit of the tax, assuming that the petitioner had paid the tax at the purchase point u/s 5, where the input or raw material was purchased, and therefore the petitioner is out of the scheme of very provision of Section 5A.

20. I have examined the rival contentions. I have also looked into the decision rendered by the Division Bench of this court in Vasavadatta Cements Vs. Karnataka Appellate Tribunal and Others, . This court had occasion to interpret the provision of Section 5A as it stood at the relevant point of time governing the assessment orders in question in that case, viz., for the years 1987-88 to 1993-94. The Division Bench was interpreting Section 5A as it stood at that time. It is obvious that there is material difference even in the language of the section for the periods in question. The following is the statement comparing the section as considered in the decision of the Division Bench and as it stood during the relevant period applicable to this case:

As interpreted by the Division Bench For the period 1-4-2001 to 31-3-2002 "5A. Taxation of industrial inputs.-- "5A.-Taxation of industrial inputs. - (1) (1) Notwithstanding anything contained Notwithstanding anything contained in in Section 5 the tax payable by a Section 5, the tax payable by a registered registered dealer, in respect of the dealer, in respect of the sale of any ind- sale of any industrial input liable to ustrial input liable to tax under the Act tax under the Act to another registered to another registered dealer for use by the dealer for use by the latter as a comp- latter as a component part or raw material onent part or raw material or packing or packing material of any other goods which material of any other goods, which he he intends to manufacture inside the State intends to manufacture inside the State for sale or in respect of sale of consumables for sale, shall be at the rate of four liable to tax under the Act to another regi- per cent or the rate specified in stered dealer for use in such manufacture, section 5, whichever is lower, on the shall be at the rate of four per

cent or the taxable turnover relating to such sale : rate specified in Section 5, whichever is lower, on the taxable turnover relating to such sale:

Provided that where the rate of tax in respect of such industrial input as specified in Section 5 is higher than the rate specified in Section 5 is four per cent, the provisions of this sub-section shall not apply, unless the dealer selling the industrial inputs furnishes to his assessing authority in the prescribed manner a declaration by the buying dealer in the prescribed form obtained from the prescribed authority." Where the buying dealer's total turnover for the year ending thirty-first day of March, 2001 as declared in the return for such period exceeds one hundred lakhs rupees, such buying dealer shall give a declaration in such form and in such manner as may be prescribed:

Provided further that if any dealer, after purchasing any inputs, in respect of which he has furnished a declaration under the first proviso to this sub-section fails to make use of the whole or part of such inputs in the manufacture of other goods specified in the declaration before the expiry of the accounting year immediately succeeding the one in which such inputs are purchased, either due to cessation of his manufacturing activity or for any other reason, but has not sold away such inputs, he shall be liable to pay the difference between the tax payable at the rate specified u/s 5 and the tax computed at the rate of four per cent on the turnover relating to the sale of such quantity of these inputs to him as have remained unutilised with him for the declared purpose at the end of the period specified above. 21. Therefore, the reliance placed by the learned Government Pleader on the decision of this court in *Vasavadatta Cements Vs. Karnataka Appellate Tribunal and Others*, , does not further the stand and the arguments addressed on behalf of the respondents in this case.

22. On a proper reading and understanding of Section 5A for the period April 1, 2001 to March 31, 2002 as amended by Act 5 of 2002, it is obvious that the provision is made for extending a benefit or concession in respect of a tax paid by the manufacturers, who are registered dealers, who make use of such inputs or raw material which is subjected to tax when it is so purchased, so long as the tax is paid u/s 5 at the purchase point and the raw material or input is used for production and the produce which in turn when sold, attracts levy u/s 5 at the sale point, the benefit is sought to be extended to the manufacturer. The benefit, as noted earlier, is to the extent that the levy earlier at the purchase time was in excess of either three per cent or two per cent, as the case may be, depending upon what was purchased being declared goods or otherwise. When such is the clear intention of Section 5A of the Act itself, being one made for extending such concession or benefit, the rest of the provisions including the proviso or an

Explanation should be one which is in consonance with it and not contrary or working at cross-purpose. On a reading of first proviso to Sub-section (1) what one can make out is that while extending the benefit, the promoters of law wanted to ensure that the benefit was not extended even when the State had not realised the actual tax that had been imposed u/s 5 at the time when the person claiming benefit, viz., the manufacturer was subjected to tax and has been remitted by the selling dealer to the State. The object is only to see that a benefit extended to a person like manufacturer, is only in respect of a part of tax which he has actually paid and which tax amount has also reached the coffers of the State by the selling dealer issuing a certificate that the tax amount so collected has been remitted to the State.

23. In the instant case, even this object of the proviso is fully complied with inasmuch as the petitioner is the person who does pay such tax at the purchase point and also remits that tax amount to the State by himself and not through the selling dealer. It makes little difference for augmenting the coffers of the State as to whether it is received from the selling dealer or purchasing dealer himself. I cannot see any intelligible differentia being made in making a distinction as between a manufacturer who pays the tax while purchasing the raw material whether at the sale point or purchase point. If the proviso is one which on a plain reading can restrict the benefit only to a situation where the manufacturer pays it through the selling dealer and not by paying it himself, then, there is something radically wrong with the proviso, which, to that extent, runs counter to the main provision. In understanding and interpreting a proviso, it should be one for giving effect to the main provisions and to avoid an interpretation which render it unconstitutional or unintelligible. In the present case, if the provision is read as one which is operative only in a situation where, in reality, the compliance is possible that will avoid any inconsistency or an illegality or unconstitutionality being attributed to the proviso, inasmuch as on a plain reading or a strict construction of the proviso, the proviso would disentitle a person like the petitioner from the benefit or concession extended u/s 5A of the Act in the present situation, which is without any rationale or intelligible differentia.

24. On the question of interpretation and understanding the statutory provisions in the proper perspective, Lord Denning, L.J., had an occasion to say as under in the case of *Seaford Court Estates Ltd. v. Asher* reported in [1949] 2 All ER 155:

The English language is not an instrument of mathematical precision. Our literature would be much the poorer if it were. This is where the draftsmen of Acts of Parliament have often been unfairly criticised. A Judge, believing himself to be fettered by the supposed rule that he must look to the language and nothing else, laments that the draftsmen have not provided for this or that, or have been guilty of some or other ambiguity. It would certainly save the Judges trouble if the Acts of Parliament were drafted with divine prescience and perfect clarity. In the absence of it, 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 he must do this not only from the language of the statute, but also from a consideration of the social conditions which gave rise to it and of the mischief which it was passed to remedy, 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 so 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.

25. This view has been quoted with approval by the Supreme Court in the case of N.K. Jain and others Vs. C.K. Shah and others, . It is therefore declared and held that the proviso to Section 5A particularly the first proviso to Sub-section (1) should be so understood as to operate only in a situation where it is possible of compliance and not in a situation where it is impossible of compliance, only because of the language of this proviso and not because of any non-compliance with the main provision, i.e., Sub-section (1) of Section 5A of the Act. A direction is issued to the respondent to understand and implement the proviso in the manner as interpreted in this order.

26. Learned Senior Counsel for the petitioner submits that the authorities had completed the assessment on an understanding as had been submitted by the learned Government Pleader and as indicated in the assessment order. The assessment order though may not be part of this writ proceeding, having been passed by denying the benefit, unless necessary directions are issued in this regard, the petitioner may not reap the benefit of the interpretation of the provisos as in this order and the entire exercise in such an event will be reduced to an exercise in futility.

27. Learned Senior Counsel has also placed on record a copy of the assessment order and submits that as this was the only disputed aspect, the matter had not been carried in appeal but instead, as the matter involved interpretation of the very proviso and the validity thereof, the petitioner had chosen to file the present petition and to the extent, the petitioner has succeeded in the present writ petition and the interpretation of Section 5A being one as urged by the petitioner and as held now by this court, the petitioner should be definitely given the benefit of the same by according appropriate relief.

28. Submission of Sri Vedamurthy, learned Government Pleader, is that while the period for filing the appeal has already expired, there is still scope for correcting the order by way of rectification by the authorities as the order can be rectified.

29. However, it is open to the petitioner to seek such relief as the petitioner becomes entitled in law in terms of this order and on the interpretation placed on Section 5A of the Act. The authorities are bound to take note of the interpretation as placed on Section 5A in this order and extend such benefit to

which the petitioner becomes entitled to in law.

30. Writ petition is disposed of accordingly.