**(2001) 11 PAT CK 0052**

**In the Patna High Court**

**Case No :** C.W.J.C. No. 13390 of 2001

Ornate Lab (P) Ltd. APPELLANT

Vs

State of Bihar and Others RESPONDENT

**Date of Decision :** 29-11-2001

**Acts Referred:**

**Citation :** (2002) 1 PLJR 165

**Hon'ble Judges :** R.S. Garg, J;Nagendra Rai, J

**Bench :** Division Bench

**Final Decision :** Dismissed

## Judgement

1. Heard learned Counsel for the parties.

2. The present writ application has been filed challenging the order dated 20.8.2001 (Annexure-6) by which the Commissioner of Commercial Taxes has allowed the revision application filed by the Joint Commissioner, Commercial Taxes and set aside the order of the Appellant authority i.e. Joint Commissioner (Appeals) dated 19.1.2001 granting exemption of sales tax under Industrial Policy, 1995. A copy of the Industrial Policy, 1995 has been annexed as Annexure-2.

3. Clause 16.1 of the said Industrial Policy provides for exemption of sales tax on purchase of raw materials and Clause 16.2 provides for exemption or deferment of sales tax on finished goods. The said benefits have been given only to the new units. So far unit of the Petitioner is concerned, it was earlier owned by some other person and there was default in payment of the amount taken on loan by the Bihar State Financial Corporation. The said unit was purchased by the Petitioner.

4. Under definition clause of the Industrial Policy, units have defined and new industrial unit means an industrial unit which has come into production between 1st September, 1995 and 31st August, 2000. Existing industrial unit has also been defined which means an industrial unit which has gone into production

 

before the effective date. Transferred unit means an industrial unit whose ownership/management has been transferred in pursuance of provisions of the State Financial Corporation Act or transferred with the approval of Financial institution/Banks. So far unit of the Petitioner is concerned, it is a transferred unit in view of the definition. It is also covered by definition of existing unit.

5. Benefit of the scheme under the Industrial Policy, 1995 has been given to the new industrial units only and as such the Commissioner of Commercial Taxes has-rightly held that in terms of the scheme the Petitioner is not entitled to benefit under the scheme. The reason is obvious. The unit in question was in production prior to its sale to the Petitioner by the State Financial Corporation and so after transfer it becomes the transferred unit but it cannot be said to be a new industrial unit for the purpose of conferring benefit under the scheme.

6. Accordingly, we do not find any merit in this writ application. It is accordingly dismissed.

 