
(1980) 11 DEL CK 0022

In the Delhi High Court

Case No : Civil Writ Appeal No. 179 of 1970

Renusagar Power Co. Ltd.

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 17-11-1980

Acts Referred:

Citation : (1981) ILR Delhi 102 : (1982) 137 ITR 97

Hon'ble Judges : S.S. Chadha, J

Bench : Single Bench

Advocate : Soli J. Sorabjee, Ravnder Narain, H.N. Salve, T.A. Ramachandran, M.C. Sekharan, N.A. Palkhiwala, S.K. Dastur, S. Shroff and R.P. Kapur, for the Appellant;

Judgement

S.S. Chadha, J.

(1) This petition under Article 226 of the Constitution of India seeks the quashing of the two orders dated September 2, 1969 of the Government of India in the Ministry of Finance; one of the orders directs the retrospective cancellation of the approval of the long- term loans bearing interest at the rate of 6 per cent per annum for the purpose of purchase of plant and machinery raised/debt incurred abroad by Renusagar Power Co. Ltd., Renukoot, accorded earlier in the exemption orders u/s 10(15)(iv)(c) of the Income Tax Act, 1961 issued on September 3, 1965 and June 7, 1967 and the other order refuses to accord approval of the rate of interest on the long- term loans for the purchase of structural steel and additional spares and accessories raised/debt incurred abroad by Renusagar Power Co. Ltd. u/s 10(15)(iv)(c) of the Income Tax Act, 1961.

FACTS necessary for the appreciation of the points raised are these. In October and November, 1963 negotiations took place and a preliminary agreement was entered into between Birla Gwalior Private Limited and International General Electric Company (hereinafter referred to as I.G.E.) a Division of the General Electric Company, U.S.A.. according to which Birla Gwalior Private Limited agreed

to promote a company in India to which I.G.E. agreed to supply a thermal power plant. The terms agreed to were recorded in the agreement dated November 12, 1963 (hereinafter called the agreement). Under the agreement the purchase price was to be paid on a deferred terms basis and on the unpaid purchase interest was payable to I-G.E. at 6i per cent per annum. The agreement also contained a clause (Part I, Clause D5) reading as follows :

"IGEintends to apply to the Government of India for an exemption from the payment of taxes levied by the Government of India on the above interest payments. In the event such exemption is granted the rate of interest will be reduced to 6 per cent. In the event such exemption is not granted, all such taxes will be for the account of IGE."

(2) The Company promoted, in accordance with the agreement ,is Renusagar Power Company Ltd., the petitioner in this case. Pursuant to the agreement the petitioner by ifs letter dated November 27, 1963 applied to the Government of India in the Ministry of Industry for the approval of the proposals for the import of capital goods and heavy electrical plant for establishing a thermal power plant. As the capital goods proposed to be imported were for the establishment of a new undertaking for which a license had to be obtained under the Industries (Development and Regulation) Act, 1951, the application for import license was routed through the Ministry of Industry. The application was made in duplicate in the prescribed application Form "E" for the import of machinery and equipment valued approximately at Rs. 7 crores. A copy of the agreement was forwarded by the petitioner along with the said: application. A request was also made for advising the C-C.I.&E. for the issue of the import license at an early date. The Government of India in the Ministry of Industry (Metal Section) considered the application of the petitioner for the establishment of a thermal power plant at Rahind (District Mirzapur U. P.) and for the import of plant and machinery for the proposed thermal power plant at an approximate value of Rs. 7 crores (C.I.F.). The approval of the Government of India of the proposals of the petitioner was conveyed in the letter dated January 2, 1964 on the terms mentioned in the letter. The term relating to interest reads as follows :

"(IV)Interest rate of interest will be 61/2 per cent per annum and I.G.E. will be responsible for the payment of the Indian Income Tax on the interest. The interest will accrue beginning with the month following the month in which delivery of the major items of equipment is completed."

(3) The final contract between the petitioner and General Electric Company acting through I.G.E. Was entered into on August 24, 1964 (hereinafter called the Contract). Article IIIA(3)(a) of the contract makes a provision for payment of interest on the unpaid purchase price. Sub-clause (a) reads as follows:

"3.(Promissory Notes)

(A)Payment of the remaining 90 per cent of the price of the equipment (including spare parts) and all services, namely \$11,875,500 plus interest at the rate of

61/2 per cent per annum from the 16th to the 30th month after the contract effective date totalling \$900,558.75 (subject to adjustment as set forth herein) for an overall total of \$12,776,058.75, shall be made in accordance with the following schedule of payments, the obligations to make such payments to be evidenced by four series of purchaser's unconditional negotiable promissory notes (labelled Series "A", "B", "C and "D") dated the Contract Government of Date. If seller receives an exemption from the Government of India on interest payments, made by Purchaser to Seller, then the interest for that portion of the period from the 16th to the 30th month after the Contract Effective Date remaining after the effective date of the exemption shall be computed at a rate of 6 per cent rather than 6i per cent per annum".

THE last sentence of the said letter dated January 2, 1964 had called upon the petitioner to forward nine copies of the agreement as finally entered into with I.G.E. in due course. By letter dated September 10, 1964 the petitioner enclosed nine copies of the contract entered into with I.G.E. as desired. The receipt of nine copies of the contract was acknowledged in the letter dated October 8, 1964 when a request for three more copies of the same being furnished was also made.

(4) Mr. G. B. Doughman of I.G.E. applied to the Government of India in the Ministry of Finance (Department of Revenue) on January 21, 1965 for determining the rate of interest which would be exempt from Income Tax u/s 10(15)(iv)(c) of the Income Tax Act, 1961 (hereinafter called the Act). The application was acknowledged by the Central Board of Direct Taxes of the Government of India in the letter February 27, 1965 when it was pointed out that the application should have been made by the Indian Industrial Undertaking in India and not by the Foreign Supplier. A copy of the revised proforma (Form B) was sent along with that letter with a observation that it may be submitted in duplicate to that Ministry through the Ministry of Industry and Supply. By letter dated May 31, 1965 the petitioner enclosed in duplicate the application on the revised Form "B" for approval of the rate of interest payable for exemption from Income Tax of interest payable on deferred payment to foreign supplier M/s. General Electric Technical Service Co, Inc., U.S.A. and routed it through the Ministry of Industry and Supply. Full information as required in the proforma was furnished by the petitioner, including the furnishing of a copy of the contract containing the terms of repayment for supplies.

(5) By its order dated September 3, 1965 the Government of India in the Ministry of Finance (Department of Revenue) accorded approval u/s 10(15)(iv)(c) of the Act to the terms of loan amounting to \$10,350,000 (USA Dollars Ten Millions three hundred and fifty thousands only) obtained by the petitioner from M/s. General Electric Company, I.G.E. Export Division, New York. U.S.A. bearing interest at the rate of 6 per cent per annum for the purpose of purchasing plant and machinery. Since freight charges were not included in the above said amount, the petitioner pointed out this fact, as a result of .which Government of India in the Ministry of Finance (Department of Revenue) passed another order

dated June 7, 1967 in continuation of earlier order of September 3, 1965 granting approval u/s 10(15)(iv)(c) of the Act to the terms of loan amounting to \$658,016 (Dollars six hundred fifty eight thousands and sixteen only) obtained by the petitioner from M/s. General Electric Company bearing interest at the rate of 6 per cent per annum for the purpose of plant and machinery abroad.

(6) The petitioner thereafter purchased structural steel and additional equipment of an aggregate value of \$304,753. According to the petitioner these items were part of the supply covered by the contract and were within the overall limit of the import license and the credit. The petitioner made another application on July 24, 1968 for approval of the rate of interest payable on deferred payment to the foreign supplier u/s 10(15)(iv)(c) of the Act on purchase price of those items. That application was also made to the Government of India in the Ministry of Finance routed through the Ministry of Steel, Mines and Metals (which was the concerned Ministry at that time under the Rules of Business). The prescribed application in duplicate Form "B" for determining the rate of interest for exemption of interest payable on debt/deferred payment incurred in a foreign country u/s 10(15)(iv)(c) of the Act contained full information including the forwarding of the copy of the contract and the Ministry of Industry's (Metal Section) letter dated January 2, 1964.

(7) The first impugned order dated September 11, 1968 says that the Government of India in the Ministry of Finance re-examined the entire case and found that the petitioner had been authorised by the Central Government to incur the foreign loans on certain specific terms which were incorporated in the Ministry of Industry's letter dated January 2, 1964 and that these terms inter alia provided that the rate of interest would be 6 1/2 per cent per annum and I.G.E. would itself be responsible for the payment of Indian Income Tax on the interest income. The exemption orders u/s 10(15)(iv)(c) of the Act issued on September 3, 1965 and June 7, 1967 were pronounced as incorrect and were cancelled retrospectively. By the second impugned order of the same date the application of the petitioner seeking approval of the rate of interest for exemption of Income Tax on interest payable on deferred payments for the purchase of structural steel and additional spare and accessories from I.G.E. was rejected for identical reasons. It was further observed that looking into all the circumstances and terms of the loan and its repayment, there was no justification turn approval u/s 10(15)(iv)(c) of the Act to the rate of interest payable on the deferred payments to be made to I.G.E.

(8) The first submission of Shri Soli J. Sorabjee, learned counsel for the petitioner is that the impugned orders proceed, as is apparent, on the basis as if respondents 1 and 2 had after the passing of the two orders; one on September 3, 1965 and the other on June 7, 1967, found out only on re-examination the term regarding the payment of interest in the Ministry of Industry's letter dated January 2, 1964 and that term provided the rate of interest would be 6 1/2 per cent per annum and the I.G.E. would itself be responsible for the payment of

Indian Income Tax on the interest income. The counsel contends that the foundation of the order is non-existent on the material on the record. Reference was invited to the counter-affidavit on behalf of respondents 1 and 2 when there is a slight shifting of the stand that even though the letter of the Ministry of Industry dated January 2, 1964 was within the knowledge of the Government of India in the Ministry of Finance, it was not brought to the notice of the Ministry of Finance either prior to or at the time of issuing of the letters dated September 3, 1965 and June 7, 1967 that the relevant clause in the final contract was changed by the parties. According to the counsel, all the documents including the agreement, Ministry of Industry's letter dated January 2, 1964 approving the proposals, the contract containing the provisions regarding payment of interest at 6 1/2 per cent taxable or 6 per cent tax free if approved by the Government, were placed before the Government of India in the Ministry of Finance when the applications for determination of the rate of interest for exemption of interest payable on debt incurred in a foreign country u/s 10(15)(iv)(c) of the Act were made. The counsel contends that the pointed attention was invited to the terms of repayment for supplies as per Article Iii of the contract, to the rate of interest on the debt as per agreement and in reply to para 7 when it was stated that the terms of debt and its repayment are as per Article Iii of the contract which has been approved by the Government of India, Ministry of Industry vide letter dated January 2, 1964. The impugned orders are vitiated, says the counsel, by errors apparent on the face of the record.

(9) There is no denial of the fact that the petitioner had been authorised by the Government of India in the Ministry of Industry in the letter dated January 2, 1964 to incur the foreign loans on certain terms including the term that the rate of interest would be 6 1/2 per cent per annum and I.G.E. would itself be responsible for the payment of Indian income tax on the interest income. The question for consideration is whether it was found only on re-examination, as is stated in the impugned orders, to enable the Government to form an opinion to cancel the earlier exemption orders retrospectively. The only opinion expressed for exercising the power (assuming it exists) of cancellation is the discovery after the passing of the two exemption orders. The formation of the opinion may be subjective but the existence of the circumstances relevant to the inference as the sine qua non for action must be demonstrable. The existence of the circumstances could be ascertained from the relevant files which were called for by this Court. Return to the Rule is also the original records. Mr. T.A. Ramachandran, learned counsel for respondents I and 2 fairly produced file No. 29/32/65- 11-(AI) of the Government of India in the Ministry of Finance for the perusal of the Court wherein the applications of the petitioner for determination of the rate of interest for exemption from income tax on interest payable on deferred payment to foreign supplier were considered. The first original application in prescribed form had attached with it a copy of the said letter dated January 2, 1964, a copy of the license for import of plant and machinery granted by the Chief Controller of Imports and Exports, a copy of the said letter dated

February 27, 1965 directing application to be filed by the Indian Industrial Undertaking and a copy of the contract dated August 24, 1964. On the receipt of the application in the Ministry of Finance, the comments of Ministry of Steel and Mines (Department of Mines and Metals) are obtained. The comments dated August 10, 1965 record :

"2/2(I)The object for which the capital goods are proposed to be purchased abroad and the obtaining of technical assistance has been approved by this department,

(II)The terms of repayment thereof are acceptable to this Department, and

(III)The rate of interest payment on deferred payments is 6 1/2 per cent per annum subject to tax 6 per cent if tax exemption is granted which is reasonable."

THE Department of Revenue, Ministry of Finance was requested to examine the proposal from the tax angle and, if satisfied, issued necessary approval in terms of Section 10(15)(iv)(c) of the Act.

THE noting portion in the Ministry of Finance records :

" THE facts are as under :

M/S.Renusagar Power Company had been granted an import license No. 2076593 dated 26-12-64 for a Cif value of Rs. 6,60,00,000 for the import of certain machinery from Usa subject to the terms and conditions specified in Ministry of Industry (Metal Section's) letter No. 4(3)/Met/63 dated 2-1-64. The terms stated therein are as under :

1.5 per cent of the contract price after signing the formal sales contract.

2-5 per cent of the contract price against shipping documents.

3.90 per cent of the total contract price to be paid in sixteen equal consecutive semi-annual payments between 30 and 120 months from the date of formal Sales Contract.

4.90 per cent of the total contract price to be paid in sixteen equal consecutive semi-annual payments between 30 and 120 months from the date of formal sales" contract.

5.Rate of interest will be 6i per cent per annum and General Electric Company, Ige Export Division will be responsible for payment of Indian Income Tax on the interest.

2.Contrary to the rate of interest approved by the Ministry of Industry, para 3 of Article Iii of the Contract provides also the rate of interest at 6 per cent provided the Central Government grants exemption. The Ministry of Steel and Mines, in their U.O. No. 4(32) Met 65 dated 10-8-65 have also stated the same version.

3.The former arrangement viz. payment of interest at 6i per cent subject to

Indian Income Tax is more beneficial from the point of revenue to the Government than the latter. As per the provision of section 10(15) (iv)(c) of the I.T. Act, 1965, the exemption may be limited to 6 per cent even when it exceeds. Hence there may not be any objection to the grant of exemption at 6 per cent.

4. In this case the exemption is sought on the entire contract price viz. \$13,194,500 which includes freight (\$1,000,000) and plant design & consulting service (\$695,000). The exemption may have to be limited to 90 per cent of the cost of machinery \$11,35,000 plus spare \$ 150,000 i.e. \$ 10,350,000.

THE Central Government then accorded approval at the rate of 6 per cent per annum u/s 10(13)(iv)(c) of the Act on the moneys borrowed in a foreign country, for the purpose of purchasing machinery and plant abroad and conveyed it in the letter dated September 3, 1965. When the petitioner sought exemption also in the ocean freight in the application dated November 4, 1965, that application was examined again by the Ministry of Finance in the Department of Revenue. The case was examined in consultation with the Ministry of Law that the exemption u/s 10(15)(iv)(c) of the Act would be available on the entire payment inclusive of freight and insurance charges which are payable on deferred basis. The exemption was granted in the order dated June, 7, 1967. Thus the averment made in the counter-affidavit that it was not brought to the notice of Ministry of Finance either prior to or at the time of issuing the letter dated September 3, 1965 and June 7, 1967 that the relevant clause in the contract, namely, Article IIIA(3)(a) was changed by the parties thereto is not born"; even from the file produced at the time of hearing. The counter-affidavit contains the verification that the facts stated are true to information derived from the records of the case, which do not contain any such information. I would not like to comment adversely on the conduct of the official filing incorrect affidavit, but it does not behove the Government to rely on such material.

(10) In my opinion, all the facts and the relevant documents had been placed before the Government of India in the Ministry of Finance that interest at 6 1/2 per cent per annum would be paid by the petitioner to I.G.E. if Income Tax thereon was payable by I.G.E. and the rate would be reduced to 6 per cent if the Central Government approved this rate of tax-free interest for the purpose of Section 10(15)(iv)(c) of the Act. The process of reasoning recorded in the office note reproduced above clearly establishes that the Central Government had considered the terms contained in the Ministry of Industry's letter dated January 2, 1964 and the so-called variation in the rate of interest contained in the contract. The power of the Central Government u/s 10(15)(iv)(c) of the Act was confined to approving the rate of interest that would be exempt from Income Tax and the Central Government approved 6 per cent as the rate of interest exempt from tax in the exemption orders dated September 3, 1965 and June 7, 1967 after a complete appraisal of all the relevant facts and circumstances of the case. The only reason for cancellation of the exemption orders recorded in the impugned order is that on re-examination it was found that the Ministry of

Industry approved the rate of interest at 6-112 per cent per annum and the I.G.E. would itself be responsible for payment of Indian Income Tax on the interest income. This statement is no reason in the eye of law as the terms of the approval of the proposals by the Ministry of Industry were clearly present before the Central Government when exemption orders were passed. The petitioner had fully disclosed in clause 6 Form "B" (the prescribed application for exemption of interest on debt incurred in a Foreign country) requiring the information to be furnished regarding the rate of interest on debt. In reply it is stated that "the rate of interest on the debt as per contract is 6 1/2 per cent p.a. This rate of interest would be reduced to 6 per cent provided Government grants exemption from payment of Income Tax on interest on outstanding balance of principal". It was further stated that the rate of interest had been approved by the Government of India in the Ministry of Industry in the letter dated January 2, 1964 (copy of which was enclosed). Again, in reply to the information for the amount of interest for which exemption is sought it is stated that "interest @ 6 1/2 per cent p.a for which exemption is sought is U.S. \$ 40,14,722.92 i.e. Rs. 1,92,70,670 at the exchange rate of Rs. 4.80 \$ to The existence of the facts is a condition fundamental to the formation of the opinion and for drawing inferences whether of fact or of mixed question of facts and law. The non-existence of the facts and circumstances on which the opinion of the Government of India is based in the impugned orders, persuades me to quash those orders on this short ground.

IN all fairness to the counsel for the petitioner, I may notice further arguments that the Central Government has no power to cancel retrospectively the exemption orders dated September 3, 1965 and June 7, 1967, that there is no inherent power of review in the absence of specific statutory power contained in the Act, and that even in administrative proceeding, which involve civil consequences, the doctrine of natural justice is applicable and this has been violated by the Central Government. It is not necessary to excess any opinion in this case, for I am inclined to quash the order on the short ground.

THE exemption orders u/s 10(15)(iv)(c) issued on September 3, 1965 and June 7, 1967 were cancelled retrospectively by the first impugned order dated September 11, 1969. No further discussion would have been needed after quashing that order. But the second impugned order dated September 11, 1969 declines to grant the approval u/s 10(15)(iv)(c) of the rate of interest on the long term loans for the purchase of structural steel and additional spares and accessories raised/debt incurred by the petitioner. It is, Therefore, necessary to consider the second main submission for the reason that the application of the petitioner dated July 24, 1968 has to be reconsidered by the Central Government now. The submission of the counsel for the petitioner is that the question regarding the fixation of the rate of tax free interest had to be separately decided for the purpose of the Act and the decision had to be taken by the Central Government in the Ministry of Finance as was in fact done in the two exemption orders dated September 3, 1965 and June 7, 1967. In computing the total

income of a previous year of any person, any income falling within any of the clauses u/s 10 of the Act has not to be included. Clause (iv)(c) of sub-section (15) of Section 10 of the Act prior to its amendment by the Finance Act, 1964 w.e.f. April 1, 1964 read as follows :

" INTEREST payable by an industrial undertaking in India on any moneys borrowed or debt incurred by it in a foreign country in respect of the purchase outside India of raw materials or capital plant and machinery, in any case where the loan or debt is approved by the Central Government, having regard to its terms generally and in particular to the terms of its repayment."

THE Finance Act, 1964 amended the above clause with effect from April 1, 1964, and the amended clause runs as under :

" INTEREST payable by an industrial undertaking in India on any moneys borrowed or debt incurred by it in a foreign country in respect of the purchase outside India of raw materials or capital plant and machinery, to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan or debt and its repayment."

(11) Mr. Soli J. Sorabjee, counsel for the petitioner and Mr. N.A. Palkiwala, counsel for the supporting respondent contended that with effect from April 1, 1964 Section 10(15)(iv)(c) itself grants exemption to interest and the only power it gives to the Central Government is to approve the rate of interest which would be so exempted. Prior to April 1, 1964, Section 10(15)(iv)(c) empowered the Central Government to prove the loan and debt and in that case the interest payable would be excluded from the computation of the total income. With effect from April 1, 1964, the exemption to interest from income tax is statutory subject only to the limitation of the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in the Ministry of Finance in this behalf. On the other hand, the submission of Mr. T.A. Ramachandaran, is that the approval of the Ministry of Industry was not only to the grant of licenses but also to the loan agreement which specified the rate of interest @ 6-1/2 per cent P.A. and I.G.E. would be responsible for payment of Indian income tax on the interest. According to the counsel, this approval of the debt is the approval of the Central Government within the meaning of the Act and thus there was no occasion or basis to grant the exemption in the two exemption orders. Reference is invited to the provisions contained in Section 10(6)(vii)(a), Section 10(15)(iv)(b) and Section 10(23) and 10(23)(A) containing specification by the Central Government for the purpose of exemption but by orders not necessarily of the Ministry of Finance, Reliance is placed on Commissioner of Income Tax, Bombay City-I Vs. E. Hiller, , where the Government of India in the Ministry of Commerce approved the appointment for the purposes of Section 10(6)(vii)(a).

(12) The question that falls for consideration then is whether the Government of

India in the Ministry of Industry's letter dated January 2, 1964 was for the purposes of Section 10(15)(iv)(c) of the Act. Under the Government of India (Allocation of Business) Rules, 1961, the business of the Government of India is transacted in the Ministries, Departments, Secretariats and Offices specified in the First Schedule to those Rule and the distribution of subjects among the departments is as specified in the Second Schedule to those Rules. The Ministry of Industry (now designated as Ministry of Industrial Development) transacts the business of the Government in relation to General Industrial Policy including the Administration of Industries (Development and Regulation) Act, 1951, and also in regard to industries and industrial and technical development for the purpose of planning, development and control of, and assistance to, all industries other than those dealt with by any other Department. The petitioner could not establish a new industrial undertaking (thermal power plant) except under and in accordance with the license issued in that behalf by the Central Government. Section 11 of the Industries (Development and Regulation) Act, 1951 says so. The application of the petitioner dated November 27, 1963 for the establishment of a thermal power plant was to obtain this approval for license as also for the import of capital goods and heavy electrical plant for establishing a thermal power plant which had to be done under the import policy with the prior approval of the Government of India in the Ministry of Industry (Note 7 at page 473-Court Record). The Ministry of Industry was concerned with the implementation of the industrial policy, or regulating the establishment of new industries or regulating the production and development of the industries as mentioned in the schedule to the said Act. The Ministry of Industry considered the application of the petitioner with the object of controlling the development and regulation of the industry, the activities of which affected this country and for the purpose of making recommendation to C.C.I. & E. for the import license. The Ministry of Industry could not transact the business relating to the Ministry of Finance (Department of Revenue) which alone is competent under the Rules of Business, to transact all questions relating to income tax. The Ministry of Industry, Therefore, could not decide the question whether the interest should be taxable or tax free and this was not so determined in the letter dated January 2, 1964. It only approved the proposal that the rate of interest would be 6i per cent per annum and the I.G.E. would itself be responsible for the payment of Indian income tax on the interest income. The question regarding the extent to which the interest was to be excluded from the computation of the total income had to be separately decided by the Central Government in the Ministry of Finance when an application for exemption in the prescribed form was made. The Central Government in the Ministry of Finance understood this legal position when it directed in the said letter dated February 27, 1965 that the application for exemption of interest on long-term foreign loan is to be made by the Indian Industrial Undertaking in the revised proforma which was enclosed and again when it fixed 6 per cent per annum the rate of interest in the two exemption orders dated September 3, 1965 and June 7, 1967. In Hiller's case (supra) relied upon by the counsel, the question was not raised as to which Ministry under the

Rules of Business was competent to grant the exemption under the Act. Both parties there proceeded that there was valid order of exemption by the Central Government.

(13) The result of the above discussion is that the writ petition succeeds and is allowed. The two impugned orders dated September II, 1969 are quashed and are set aside. The Central Government in the Ministry of Finance will reconsider the application of the petitioner dated July 24, 1968 on merits for exemption u/s 10(15)(iv)(c) of the Act. On the peculiar facts and circumstances of the case, there will be no order as to costs.