

(2003) 03 AP CK 0053

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 30015 of 1998 and 2215, 2242, 24303 and 26797 of 2000 & Writ Petition No. 24303 of 2000

SHV Energy South East Limited and Another

APPELLANT

Vs

State Investment Promotion Board and Others

RESPONDENT

Date of Decision : 13-03-2003

Acts Referred:

Andhra Pradesh General Sales Tax Act, 1957 — Section 9

Citation : (2003) 2 ALD 665 : (2003) 3 ALT 247

Hon'ble Judges : C.V. Ramulu, J;B. Sudershan Reddy, J

Bench : Division Bench

Advocate : S. Ganesh, S. Krishna Murthy, E. Manohar and N. Jayasurya, for the Appellant; Government Pleader for Industries and Special Government Pleader for Taxes, for the Respondent

Final Decision : Dismissed

Judgement

B. Sudershan Reddy, J.—These writ petitions may be disposed of by a common order since the issues raised are common requiring our decision.

2. In nutshell, the petitioners in the instant writ petitions are challenging the denial of the benefit of exemption from sales tax as provided for under G.O. Ms. No. 108, Industries and Commerce (IP) Department, dated 20-5-1996 by the sales tax authorities. The decision of the sales tax authorities, according to the petitioners, is based upon the decision of the State Investment Promotion Board, which is purported to have been taken at the meeting held on 31st December, 1999.

3. The petitioners herein are two major liquefied petroleum bottling companies in the State of Andhra Pradesh. They are engaged in the business of importing, bottling and supply of liquefied petroleum gas (LPG). Their claim essentially centers around the industrial policy announced by the State Government for new industries in terms of G.O. Ms. No. 108, dated 20-5-1996. The petitioners herein claim the benefit of exemption in respect of the sales tax in accordance with the

said policy decision taken by the State Government.

4. The case of the respondent-State is that the petitioners-industries do not qualify for the grant of any relief under the said policy decision of the Government, as there is neither manufacture nor commercial production as such undertaken by them in the factories set up by them in the State of Andhra Pradesh.

5. The case of the petitioners is that the industrial units set up by them are engaged in the production of a product with distinct commercial identity and nomenclature i.e., bottled liquefied petroleum gas, which conforms to the provisions of the Liquefied Petroleum Gas (Regulation of Supply and Distribution) Order, 1993 (for short "the Distribution Order") and I.S.I. specifications. It is stated in the affidavit filed in support of the writ petition that the process carried out in the petitioners' plants is for the purpose of producing bottled liquefied petroleum gas, which conforms to all the legal requirements resulting in commercially known and marketable as "bottled liquefied petroleum gas". Thus, they are engaged in the production of bottled liquefied petroleum gas, which complies with the legal requirements and comes to the market. Therefore, they are entitled for the benefit of G.O. Ms. No. 108, dated 20-5-1996.

6. In order to consider the question as to whether the petitioners are entitled for the benefit of exemption granted under G.O. Ms. No. 108, dated 20-5-1996, one another factor; which according to the petitioners is very important, may have to be noticed, viz., respondents 3 and 4 issued temporary eligibility certificates to the petitioner's units (petitioner in W.P.No. 26797 of 2000) at Peddapuram (East Godavari District), Gurrupalem (Yisakhapatnam District) respectively. However, in respect of the Kondapally unit, even the issue of temporary eligibility certificate has not been examined as the issue of eligibility of the liquefied petroleum gas bottling units for the benefit of exemption under the policy decision of the Government was pending with the State Investment Promotion Board.

W.P.Nos.24303 and 26797 of 2000:

7. Sri S. Ganesh, learned Senior Counsel appearing on behalf of the petitioner in W.P.Nos.24303 and 26797 of 2000, i.e., M/s. SHV Energy South East Limited, contended that the petitioner's industrial units are entitled for the benefit of exemption as prayed for under G.O. Ms. No. 108, dated 20-5-1996. It is submitted that G.O. Ms. No. 108, dated 20-5-1996 has to be read in the light of G.O. Ms. No. 117, Industries and Commerce (IFR) Department, dated 17-3-1993 and the guidelines issued therein, and if so read, it becomes clear that all the industrial units including the servicing units, which admittedly do not produce or manufacture anything as such, are also eligible for the benefit of exemption, provided, of course, such units are not included in the list of ineligible industries.

8. Alternatively, it is submitted that in any event, having regard to the provisions of the Distribution Order, ISI specifications and the Gas Cylinders Rules, which have to be complied with by the petitioner, the bottled LPG cleared from the

petitioner's three factories is a manufactured product and, therefore, the petitioner is entitled to the benefit of exemption.

9. It is also submitted that the competent authority (the Manager, District Industries Centre) has, after inspection and verification, held that the petitioner's units were eligible to avail the benefit of exemption under G.O.Ms.No. 108 of 1996. The decision of the competent authority is binding on the sales tax authorities. The cancellation of temporary eligibility certificate in January, 2001 is of no relevancy at all, since the said cancellation has taken place in pursuance of the policy decision taken by the State Investment Promotion Board in December, 1999 and communicated in the Circular dated 17-5-2000.

10. The learned Special Government Pleader for Taxes submitted that the petitioner's industrial units are not entitled for any benefit whatsoever under G.O. Ms. No. 108, dated 20-5-1996 even if the said G.O., is read along with G.O. Ms. No. 117, dated 17-3-1993 and the guidelines issued therewith. It is contended that the industrial units, which do not produce or manufacture, are not eligible and entitled for the benefit of exemption as provided for under G.O. Ms. No. 108, dated 20-5-1996.

11. The learned Special Government Pleader for Taxes farther submitted that the temporary eligibility certificates issued by the concerned District Industries Centres, by themselves, do not confer any right upon the petitioner to claim for grant of any exemption since such temporary eligibility certificates are subject to final outcome of the decision of the District Level Committee or State Level Committee, as the case may be.

12. Before we undertake to critically examine each of the submissions made by the learned Senior Counsel, it may be necessary to notice the salient features of the policy decision taken by the Government providing for certain exemptions in favour of the new industrial units.

13. We are inclined to agree with the submissions made by the learned Senior Counsel that the Government's new industrial policy called "TARGET-2000" introduced by the State Government in order to accelerate the industrial development of the State notified in G.O. Ms. No. 108, dated 20-5-1996 may have to be read along with G.O. Ms. No. 117, dated 17-3-1993 and the guidelines issued therewith. In our considered opinion, even if they are so read, the petitioner herein is not entitled for any benefit as claimed by it. G.O. Ms. No. 108, dated 20-5-1996 itself has been issued in modification of the earlier orders including the orders in G.O. Ms. No. 117, dated 17-3-1993. The contention that under the guidelines issued in G.O. Ms. No. 117, dated 17-3-1993 all the industrial units are eligible for the benefit of exemption from payment of sales tax, in our considered opinion, is totally misconceived. The guidelines cannot be read as statutory provisions. The guidelines are generally issued for the benefit of the personnel entrusted with the implementation of the Scheme. Such

guidelines do not supplant, but only supplement the orders issued by the Government. Each of the clauses in the guidelines cannot be read in isolation. The guidelines are to be read as a whole and in such a manner to give effect to the policy formulation of the Government. The guidelines are to be read so as to be in conformity with the policy. If the guidelines are so read, the submission that all the industrial units including the servicing units, which do not produce or "manufacture" anything as such, are also entitled for the benefit of exemption granted, cannot be accepted. One of the guidelines issued under the new comprehensive scheme itself provides the sales tax payable by the new industrial units on the sales of finished goods (approved products manufactured in the unit) both under the Andhra Pradesh General Sales Tax Act and Central Sales Tax Act from the date of commencement of commercial production for a period up to 5 years in case of exemption/up to 10 years in case of deferment subject to the limits prescribed under the scheme.

14. At any rate, G.O. Ms. No. 108, dated 20-5-1996 issued by the Industries Department in modification of all the earlier orders including G.O. Ms. No. 117, dated 17-3-1993 is a self-contained one. We may have to notice three relevant clauses in the said G.O. Ms. No. 108, dated 20-5-1996 and they read:

"6.01) All New Industrial Units, whether large, medium or small other than those listed in the Annexure, to be located anywhere in the State of Andhra Pradesh, except within the Municipal Corporation areas of Hyderabad, Vijayawada and Visakhapatnam, and going into commercial production on or after November 15, 1995 are eligible for the following incentives.

6.02) Investment subsidy: 20% of the fixed capital investment but not exceeding Rs. 20.00 lakhs.

6.03) Deferment/Tax Holiday on Sales Tax: Sales Tax Deferment limited to 135% of Fixed Capital investment in a period of 14 years. The deferred amount will be treated as deemed loan on making available security of fixed assets of the industry, pan passu with financial institutions and on finalisation of assessment by the Commercial Tax authorities for each year.

OR

Sales Tax Exemption for a period of 7 years, limited to a ceiling of 135% of fixed capital investment, during the entire holiday period, at the option of the industry, effective from the date of commencement of commercial production.

NOTE:

(a) Sales Tax here refers to sales tax on products manufactured in the New Industrial Units.

(b) All new industrial units can avail either Deferment or Exemption (Holiday) on Sales tax as per their option, within the limits prescribed above, but not both.

(c) New Industrial Units, availing Sales Tax Deferment option, can avail

deferment on sales tax to the extent of eligibility fixed, in a period of 14 years or less. The deferment allowed to a unit in the first year should be paid back in lumpsum at the end of 14th year thereof without interest. Similarly, the deferment allowed in 2nd year should be paid back in lumpsum at the end of 15th year, and so on. Belated payment will carry 21.5% interest or as decided by Government from time to time (from the due date).

(d) New Industrial Units availing sales tax exemption, can avail sales tax exemption in 7 years or less and are liable to pay the sales tax after exhausting the eligible, limit fixed or at the end of 7 years, whichever is earlier, as the case may be.

(e) The amount of sales tax due and deferred under the interest free sales tax deferral scheme, will be treated as deemed to have been paid and an identical amount will be treated as Government loan, subject to the terms and conditions and guidelines as stipulated in G.O. Ms. No. 187, Industries and Commerce (IP) Department, dated 21-11-1995, as amended from time to time and subject to the provisions of para 6.03 above and subject to making available security of fixed assets of the industry and finalisation of assessment by Commercial Tax Authorities for each year.

15. Now we proceed to consider the question as to whether the bottled liquefied petroleum gas cleared from the petitioner's industrial units is a manufactured product and, therefore, the petitioner is entitled to the benefit of exemption?

16. The learned Senior Counsel contended that the expression "commercial product" and "manufacturing process" cannot be over switched in order to deprive the benefit of deferment of sales tax as provided for under G.O. Ms. No. 108, dated 20-5-1996. This is the main thrust of the submissions made by the learned Senior Counsel appearing on behalf of the petitioner.

17. Reliance is placed upon various decisions in support of the submission and we shall advert to each one of them:

18. In *Chrestien Mica Industries Ltd. v. State of Bihar*, (1961) 12 STC 150 the Supreme Court held, "the process of mining mica is a process of production within the meaning of Section 2(g) of the Bihar Sales Tax Act, 1947, as amended by Bihar Act VI of 1949." The Supreme Court referred to the elaborate process that has been set out in the Mica Enquiry Committee Report of 1944-45 in support of the conclusion that the process as described in the report would fall within the dictionary meaning of the word "production". The Court further held that it is unnecessary to decide what the word "manufacture" means. The Supreme Court relied upon the meaning of the word "production" stated in the Oxford English Dictionary, which means, amongst other things that which is produced; a thing that results from any action, process or effort, a product; a product of human activity or effort.

19. In *Commissioner of Income Tax Vs. Union Carbide India Ltd.*, , the Calcutta

High Court while construing the expression "industrial undertaking" within the meaning of Section 80J of the Income Tax Act, 1961 held, "the Deep Sea Fishing Division of the assessee therein was an "industrial undertaking" within the meaning of Section 80J and entitled to relief under the Section." The Supreme Court took note of the fact that as a result of operations carried out by the assessee in its "Deep Sea Fishing Division", the natural produce, i.e., the shrimps caught from the deep seas, was converted into frozen fish and fish products. The operations consisted of cleaning, peeling, packing and freezing the shrimps without which the same were not marketable and as a result of such processing, a new commercial product came into existence.

20. Similar is the view taken by the Kerala High Court in Commissioner of Income Tax Vs. Marwell Sea Foods, .

21. In Union of India and another Vs. Delhi Cloth and General Mills Co. Ltd. and another, the Supreme Court held that "the commodity which is sought to be made liable to duty must be marketable and not a commodity that may by further processing be made marketable." The assessee therein manufactured and sold calcium carbide in the market until the year 1967. Thereafter, it utilised the calcium carbide that it manufactured in the process of the production of acetylene gas in its acetylene gas plant. The calcium carbide that was manufactured was tapped from the furnace in liquid form, placed in trays, allowed to cool and solidify and thereafter broken into cakes of the required size. Called upon to pay excise duty on such calcium carbide, the assessee contended that it was not excisable being an intermediate product used for the generation of acetylene gas in the factory of manufacture. The Supreme Court observed that "the calcium carbide that was manufactured by the respondent for further utilization in the production of acetylene gas was not of a purity that rendered it marketable nor was it packed in such a way as to make it marketable, that is to say, in airtight containers." It was under those circumstances, the Supreme Court took the view that the calcium carbide manufactured by the assessee therein is not excisable.

22. We fail to appreciate as to how the said judgment would render any assistance whatsoever in order to consider the question as to whether any process of manufacturing is at all involved and undertaken by the petitioner's industrial units.

23. In Ardeshir H. Bhiwandiwalla Vs. The State of Bombay, , the Supreme Court was concerned with the question whether the "Salt Works" come within the definition of the word "Factory" under Clause (m) of Section 2 of the Factories Act, 1948. The question was as to whether the salt works covering an area of about two hundred and fifty acres is to be treated as a factory within the meaning of Clause (m) of Section 2 of the Factories Act, 1948. On the entire land, the only buildings consist of temporary shelters constructed for the resident labour and for an office. The question that had arisen for consideration was whether any manufacturing process was being carried on in salt works in

converting the sea water into salt. That after noticing laborious process that is involved and carried out in the salt works, the Supreme Court held that "the process comes within the definition of "manufacturing process" in Section 2(k) as salt can be said to have been manufactured from sea water by the process of treatment and adaptation of sea water into salt. The Supreme Court made a pertinent observation that "sea water, a non-commercial article, has been adapted to salt, a commercial article." We fail to appreciate as to how the said judgment supports the case of the petitioner. From the sea water, the company manufactured salt, a commercial article. The process itself involves various steps required to be taken for conversion of sea water into salt-Entirely a new commercial product has come into existence.

24. Strong reliance has been placed upon a decision of the Karnataka High Court in *Brooke Bond Lipton India Ltd., v. State of Karnataka* (Kar.), (1998) 109 STC 265. In the said case, the State Government of Karnataka by notification dated 25th July, 1990 announced a new package of incentives and concessions to industrial units located in various zones in the State of Karnataka. Under the said notification the "outputs" of all industrial units being tiny, small, medium and large scale were exempted from payment of sales tax for various periods from the date of commencement of commercial production depending on the zones of their location. Subsequently, the State Government issued another notification dated June 21, 1991 with specific reference to Section 8A of the Karnataka Sales Tax Act, 1957, granting exemption in respect of the tax payable under the Act on sale of goods manufactured by new industrial units to the extent provided in the table appended to the said notification. The competent authority under the notification, the Joint Director of Industries, had granted the required eligibility certificate dated June 5, 1993 in respect of one of the units of the assessee therein, which was set up to blend and package tea by using hi-technology machines. At the time of assessment, the assessing authority refused to grant exemption on the output of the unit, viz., blended packaged tea, since no manufacturing process was involved in hi-tech packaging. Reversing the order, the Karnataka High Court took the view that the industrial unit of the petitioner therein fell in the category of "agro-food processing and/or agro-based hi-tech packaging industrial unit" and therefore, under the policy decision of the State Government pronounced in the first notification, the products of the industrial unit of the petitioner therein was entitled to all incentives including that of exemption from sales tax.

25. The said decision, in our considered opinion, does not really support the case of the petitioner herein since it is mainly based upon the concession made by the learned Advocate General appearing on behalf of the State that there was absolutely no change in the policy decision of the Government between the first and second notifications in respect of grant of incentives to new industrial undertakings as originally devised and according to which sales tax exemption was ensured and promised on the sale of "output" of the industries mentioned in the notification which admittedly covered the industrial unit of the petitioner

therein. The High Court took the view that the words used in the said notification "goods manufactured" had to acquire colour from the corresponding expressions used in the first notification. The Court accordingly held that the words "goods manufactured" used in the second notification needed to be understood and implied as "output" or "goods produced" by the industrial units which were eligible for availing of incentives under the first notification, being the declaration of the industrial policy of the State Government. Be that as it may, we are unable to persuade ourselves to subscribe and agree with certain wide observations made in the judgment, which may have to be confined to the facts in that case.

26. In the instant case we have already noticed that G.O. Ms. No. 108, dated 20-5-1996 has been issued in modification of all the earlier orders and notifications containing declaration of the industrial policy of the State Government. The new industrial policy called "TARGET - 2000" issued in order to accelerate Industrial Development of the State itself proclaims that after careful review and examination of the package of incentives and all the other connected factors, the present policy has been issued in modification of all other earlier orders.

27. The whole of the argument of the learned Senior Counsel is built upon Clause 4.2 of the guidelines issued by the State Government in the matter of implementation of G.O. Ms. No. 117, dated 17-3-1993. The said clause explains that the industrial unit means any industrial undertaking and servicing unit other than those run departmentally by Government of India/State Government and other than those listed in Annexure-I to the G.O. Ms. No. 117, Industries and Commerce (IFR) Department, dated 17-3-1993. The arguments proceeding thus that all the industrial undertakings even servicing units are entitled for the benefit of deferment/tax holiday on sales tax as provided for in G.O. Ms. No. 117, dated 17-3-1993. All those industries, which are not entitled for the benefit of the scheme, are included in Annexure-I, list of ineligible industries. All those industries, which are not included in Annexure-I are entitled for the benefit of deferment/tax holiday on sales tax, is the submission.

28. We find it very difficult to accept the submission for more than one reason: Firstly, the guidelines cannot be read, as we have indicated hereinabove, in isolation and on the other hand they have to be read in conformity with the policy proclaimed by the Government. G.O. Ms. No. 117, dated 17-3-1993 itself in categorical terms says that the sales tax percentage of deferment/tax holiday and the period as specified shall be applicable only on products manufactured in the industrial units. Therefore, the question is as to whether any products as such are manufactured by the petitioner's industrial units located in various places in the State. Secondly, certain industries were declared ineligible for the benefit of exemption provided for under the said G.O. for the purpose of ensuring that no industrial unit is able to obtain any benefit including that of obtaining provisional/temporary exemption certificate affecting the revenue of the State. The list admittedly includes even the manufacturing units. Yet, the Government

in its wisdom thought that they are not entitled for the benefit of the new industrial policy providing certain benefits to the newly set up industries. Therefore, we find it difficult to accept that all other industries, except such of the ineligible industries specified in Annexure-I are entitled for the benefit of deferment/tax holiday on sales tax.

29. The crucial question is as to whether any products as such are manufactured in the industrial units of the petitioner?

30. The said question, in our considered opinion, is not *res integra*, but squarely covered by the judgment of the Gujarat High Court in *State of Gujarat v. Kosan Gas Company (Guj.)*, (1992) 87 STC 236. The assessee therein used to purchase L.P.G. in bulk from M/s. Hindustan Petroleum Corporation Limited and fill the same into cylinders and resell them. The question, which had arisen was as to whether it was a resale or manufacture. The process of filling of LPG into the small cylinders was with the help of air compressor and automation. The Gujarat High Court held that "the LPG transferred into the small cylinders remains to be L.P.G. There is essentially or commercially no change whatsoever in the basic characteristics of the commodity, namely, LPG." This is the complete answer to the submissions made by the learned Senior Counsel appearing on behalf of the petitioner.

31. In *South Bihar Sugar Mills Ltd., etc. Vs. Union of India (UOI) and Others*, , the Supreme Court while construing the word "manufacture" in Central Excise and Salt Act, 1944 held that "the word "manufacture" implies a change but every change in the raw material is not manufacture. There must be such a transformation that a new and different article must emerge having a distinctive name, character or use."

32. The expression "manufacture activity" used in the Industrial Policy Resolution dated 13-5-1986 of the Government of Orissa, which provides several incentives to those new industrial units in the State, has been interpreted by the Supreme Court in *Commissioner of Sales Tax v. Jagannath Cotton Co. (S.C.)*, (1995) 99 STC 83. It is observed by the Supreme Court that "manufacture in its ordinary connotation, signifies emergence of new and different goods as understood in the relevant circles. Furthermore, the use of the expression "purchase of raw materials" itself shows that what is ultimately produced is different goods than the raw material used." The Supreme Court took the view that the concessions at substantial cost to the public exchequer were being provided with a view to encouraging units engaged in the manufacture or production of goods and not to help those units which merely engaged themselves in some sort of processing whereunder the goods remain essentially the same goods even after the said process. Even if a process is adopted, the test is the same viz., whether different goods emerge as a result of application of such process.

33. In *Deputy Commissioner of Sales Tax v. Pio Food Packers (S.C)*, (1980) 46 STC 63 the Supreme Court succinctly stated the principle and the test to be

applied as to when a commodity may be said to have been manufactured. It is observed:

"Commonly, manufacture is the end result of one or more processes through which the original commodity is made to pass. The nature and extent of processing may vary from one case to another, and indeed there may be several stages of processing and perhaps a different kind of processing at each stage. With each process suffered, the original commodity experiences a change. But it is only when the change, or a series of changes, take the commodity to the point where commercially it can no longer be regarded as the original commodity but instead is recognised as a new and distinct article that a manufacture can be said to take place. Where there is no essential difference in identity between the original commodity and the processed article it is not possible to say that one commodity has been consumed in the manufacture of another. Although it has undergone a degree of processing, it must be regarded as still retaining its original identity."

(Emphasis is of ours).

34. In *Collector of Central Excise, Bombay-II Vs. Kiran Spinning Mills*, , the Supreme Court relying upon its earlier decision in *Union of India (UOI) Vs. Delhi Cloth and General Mills*, , held that "manufacture" means to bring into existence a new substance and does not mean merely to produce some change in a substance. The expression "manufacture" may cover the transformation but the question is whether that transformation brings about fundamental change, a new substance is brought into existence or a new different article having distinctive name, character or use results from a particular process or a particular activity.

35. However, the learned Senior Counsel contended that the provisions of the Distribution Order, Gas Cylinder Rules and ISI specifications, which are required to be complied with by the petitioner itself reveal the nature of manufacturing processes resulting in production of altogether a different product from that of the bulk gas purchased by the petitioner. We are unable to persuade ourselves to accept the submission. The Distribution Order issued u/s 3 of the Essential Commodities Act, 1955, in no manner, deals with the manufacture of LPG. The very purpose of the Distribution Order is to regulate the supply and distribution of the LPG. It is concerned with the supply and distribution of LPG filled into the cylinders. It mainly and essentially deals with the supply and distribution of LPG. The Distribution Order, obviously, is made in order to ensure the transparency and accountability in the storage, distribution and marketing of the LPG. On the other hand, the said Distribution Order defines "liquefied petroleum gas" (LPG) as a mixture of certain light hydrocarbons which may include propane, isobutene, normal butane butylenes etc., which are gaseous at normal ambient temperature and atmosphere pressure but may be condensed to liquid state at normal ambient temperature by the application of pressure and which conforms to Indian Standard Specification No. IS 4576. It does not speak about any process of manufacture of LPG from bulk gas.

36. The Gas Cylinder Rules, 1981 essentially deal with the filling, possession, import and transport of cylinders and not with any manufacture or production of LPG. The Rules provide the details of safety devices required to be taken by the manufacturers of cylinders and marketing of cylinders. We fail to appreciate as to how the said Rules disclose the nature of manufacturing process involved, if any, of LPG. The Rules mainly deal with filling, possession, import and transport of cylinders and safety measures required to be taken by the persons filling in cylinders with any compressed gas etc. The Rules exclusively do not deal with LPG as such.

The Distribution Order as well as the Gas Cylinder Rules, in our considered opinion, do not have any bearing whatsoever or provide any clue as to the manufacturing process of LPG, if any, involved.

37. For the aforesaid reasons, we are of the considered opinion that the petitioner's industrial units are, in no manner, engaged in the activity of "production of bottled LPG". There is no manufacturing process as such involved. The bottled LPG is not entirely a different product as such. It is not a new substance. Mere change in the substance does not amount to any manufacture. The character of the substance remained the same even after bottling. It is not a new commercial commodity brought into existence.

38. It is very well settled that the expressions in the notifications for exemption should always be understood by the language employed therein bearing in mind the context in which the expressions occur. "The words used in the provision imposing tax or granting exemption should be understood in the same way in which these are understood in ordinary parlance in the area in which the law is in force or by the people who ordinarily deal with them."

39. It is equally well settled principle that "a person who claims exemption has to establish his case. The principle that in case of ambiguity, a taxing statute should be construed in favour of the assessee - assuming that the said principle is good and sound - does not apply to the construction of an exception or an exempting provision; they have to be construed strictly. A person invoking an exception or an exemption provision to relieve him of the tax liability must establish clearly that he is covered by the said provision. In case of doubt or ambiguity, benefit of it must go to the State. This is for the reason, viz., each such exception/exemption increases the tax burden on other members of the community correspondingly. Once, of course, the provision is found applicable to him, full effect must be given to it. The notification granting exemption has to be interpreted in the light of the words employed by it and not on any other basis." (For the proposition see: Collector of Central Excise v. Parle, Exports (P) Ltd. (S.C.), (1989) 75 STC 105 Novopan India Ltd., Hyderabad Vs. Collector of Central Excise and Customs, Hyderabad, , and MSCO. Pvt. Ltd. Vs. Union of India (UOI) and Others, .

40. In Kallam Spinning Mills Ltd.v, C.T.O. (A.P.), (1998) 108 STC 321 a Division

Bench of this Court speaking through Syed Shah Mohammed Quadri, J., (as His Lordship then was) observed that "the principle of beneficial construction does not permit re-writing of the notification by including a benefit which is not available on the plain and clear wording of the notification... ..So when the language itself is plain and does not include the benefit claimed by the petitioner, on the ground that the petitioner falls within the category of the persons who are in the contemplation of the authority issuing the notification, the same cannot be extended to him on the principle of liberal construction."

41. The learned Senior Counsel invoked the assistance of "principle of contemporanea expositio" in support of his submission that the competent authority (Manager, District Industries Centre) has, after inspection and verification, held that the petitioner's units were eligible to avail the benefit of exemption under G.O.Ms.No. 108 of 1996. It is submitted that the understanding by the competent authority about the nature and scope of the notification issued by the Government granting the benefit of exemption is correct and reflects the true intention of the Government in issuing the notification. The decision of the competent authority is binding on the sales tax authority, is the submission.

42. We express our inability to accede to the said submission. There is no decision as such by the Manager, District Industries Centre in issuing temporary eligibility certificate under the notification issued in G.O. Ms. No. 108, dated 20-5-1996. Even according to the guidelines, the temporary eligibility certificate indicates the tentative eligibility fixed for availing the deferment of sales tax facility at 20 % of the total quantum of eligibility towards the deferment of sales tax as determined on the basis of the fixed capital investment actually incurred. The Commercial Tax Officer concerned will allow the deferment of sales tax facility from the first month of production onwards. However, such deferment allowed will be adjusted by the Commercial Tax Officer concerned against the final eligibility fixed for the industrial unit by the State Level Committee. The decision, so far as the petitioner herein is concerned, is required to be taken by the State Level Committee. No decision as such has been taken by the State Level Committee in the matter. On the other hand, the very temporary eligibility certificates issued by the General Manager, District Industries Centre were set aside. The petitioner did not challenge the order of cancellation of temporary eligibility certificates.

43. In *Desh Bandhu Gupta and Co. and Others Vs. Delhi Stock Exchange Association Ltd.*, , the Supreme Court held that "the principle of contemporanea expositio (interpreting a statute or any other document by reference to the exposition it has received from contemporary authority) can be invoked though the same will not always be decisive of the question of construction." The Court approvingly referred to the statement of law made in *Crawford on Statutory Construction* that administrative construction (i.e., contemporaneous construction placed by administrative or executive officers charged with executing a statute) generally should be clearly wrong before it is overturned;

such a construction commonly referred to as practical construction although not controlling, is nevertheless entitled to considerable weight it is highly persuasive.

44. The said principle has been approvingly referred to in *K.P. Varghese Vs. Income Tax Officer, Ernakulam and Another*, .

45. The very Industries Department realised its mistake in initially granting temporary eligibility certificates and thereafter refused to sanction final eligibility certificates. It is explained that the Industries Department granted such temporary eligibility certificates on the ground that the petitioner's units are registered by the Government of India as industries and also the activity is not included in the ineligible list annexed to G.O. Ms. No. 108, dated 20-5-1996. The Commercial Tax Department raised its objections and accordingly informed the Commissioner of Industries that as per Clause 6.3 of G.O. Ms. No. 108, dated 20-5-1996 non-manufacturing units are not eligible for sales tax incentives. It is for that reason, final certificate was not issued. The case on hand reflects different interpretations placed by two of the departments of the Government of Andhra Pradesh. The Commercial Tax Department came to the conclusion that the petitioner's units are not entitled for the benefit of deferment of sales tax in terms of G.O. Ms. No. 108, dated 20-5-1996. Initially, the Industries Department thought that the petitioner would be entitled for the benefit of deferment of sales tax solely on the ground that the petitioner's industry has not been included in the list of ineligible industries. Later, the Industries Department also realised its mistake. It is thus obvious that there is no uniformity even amongst the administrators and the personnel entrusted with the implementation of the scheme as to the eligibility and entitlement of the petitioner for grant of benefit under G.O. Ms. No. 108, dated 20-5-1996. In such circumstances, we are not inclined to rely upon the initial interpretation of the notification issued by the Industries Department. For the aforesaid reasons, we hold that the principle of *contemporanea expositio*, as an aid to interpret and know the real intention behind the policy formulation, is not applicable on the facts and in the circumstances of the case.

46. In our considered opinion, the inspection and verification held by the Manager, District Industries, Centre and grant of temporary eligibility certificate itself does not confer any right upon the petitioner to insist for the benefits provided for under G.O. Ms. No. 108, dated 20-5-1996. The scheme itself provides that such grant of eligibility certificates, unless final eligibility certificates are granted by the State Level Committee, are of no consequence.

47. The petitioner - M/s. SHV Energy South East Limited earlier filed W.P.Nos. 11383, 13214 and 16421 of 1999 questioning the provisional assessment orders passed by the Commercial Tax Officer. A Division Bench of this Court disposed of the said writ petitions by the order dated 25-1-2000. Even in those writ petitions, the petitioner claimed incentives in respect of the sales tax announced by the State Government for the new industries in terms of G.O.Ms.No. 108, dated 20-5-1996. Reliance was placed upon the temporary eligibility certificates issued

by the Manager, District Industries Centre. This Court directed the State Investment Promotion Board to take an appropriate decision in the matter in accordance with law. The writ petitions were obviously disposed of on the ground as if the State Investment Promotion Board did not take any decision as on that date. Now it is evident from the record that the State Investment Promotion Board had already taken a decision in the matter in its meeting held on 31st December, 1999 wherein certain incentives are provided. The said decision is sought to be impugned in these writ petitions incidentally on the ground that the decision has been taken without providing an opportunity of being heard to the petitioner. The contention is totally untenable and unsustainable. No notice is required to be issued by the State while formulating or re-formulating its policy decisions. At any rate, we do not propose to make any further probe into the matter since we are concerned in the instant writ petitions with simple question as to whether the petitioner is entitled for the deferment/tax holiday on sales tax in terms of G.O.Ms.No. 108. dated 20-5-1996.

48. The learned Senior Counsel, however, contended that in view of the provisional eligibility certificate, the petitioner did not collect any sales tax from the consumers in respect of the LPG marketed by it and it would be unjust to impose liability upon it.

49. It is the settled position that an assessee is liable to pay the sales tax and the question whether has collected it from the consumer or not is of no consequence. His liability is by virtue of being an assessee under the Act. Under the provisions of the Andhra Pradesh General Sales Tax Act, the statutory liability to pay the sales tax is on the dealer. The Act does not impose any legal obligation on the dealer to recover the sales tax on the goods sold to the vendee. Therefore, the fact of non-collection of tax from the purchasers itself would not be a legal justification to avoid the liability to pay the sales tax by the petitioner. (For the proposition see: *American Remedies Pvt. Ltd., and Anr. v. Govt. of A.P. and Anr.* (SC), (1999) 29 APSTJ 43 *Al-Kabeer Exports Ltd. v. CCT, Hyd.* (APHQ, (2000) 31 APSTJ 58 and *Central Wines and Ors. v. The State of AP.*, (1987) 4 APSTJ 77).

50. No other point is urged.

51. For the aforesaid reasons, the writ petitions fail and shall accordingly stand dismissed with costs. Consequently, the interim orders earlier granted by this Court shall accordingly stand vacated.

W.P. Nos.30015 of 1998; 2215 and 2242 of 2000:

52. The petitioner in these three writ petitions is M/s. Shri Shakti LPG Ltd. Except certain features, which may not be similar to the other case, the main question canvassed in these writ petitions is one and the same.

53. The prayer in W.P.No. 30015 of 1998 is to declare that the petitioner is entitled for the benefits provided for under G.O. Ms. No. 117, dated 17-3-1993

and G.O. Ms. No. 108, dated 20-5-1996. The petitioner also prays for grant of a consequential direction directing the respondents to grant all the benefits thereunder including the exemption from the sales tax.

54. The whole of the writ petition is based upon the assertion that the Government has compiled a list of ineligible industries in Annexure-I to G.O. Ms. No. 117, dated 17-3-1993 and admittedly the petitioner- industry is not one of those mentioned in the list. It is thus contended that except those industries mentioned in Annexure-I all other industries are eligible for exemption. It is also contended that the deferment/tax holiday on sales tax is not confined to the manufacturing industries alone. The only difference in these writ petitions filed by M/s. Shri Shakti LPG Ltd., from that of the writ petitions i.e., W.P.Nos.24303 and 26797 of 2000 filed by M/s. SHV Energy South East Limited, is that not only the temporary eligibility certificate dated 12-6-1995 was issued to the industrial unit of the petitioner at Kakinada, but also a final eligibility certificate was issued on 19-3-1996 by the Commissioner of Industries, Hyderabad. Likewise, the temporary as well as final eligibility certificates were issued in respect of the petitioner's unit at Bibinagar by the Industries Department.

55. The Commercial Tax Department filed a detailed counter-affidavit on the similar lines as the one filed in W.P. Nos. 24303 and 26797 of 2000, which are dealt with hereinabove. The simple case of the State is that the petitioner is not involved in the manufacture of any product as such in its industrial units. Therefore, they are not entitled for the benefit of deferment/tax holiday on sales tax in terms of G.O. Ms. No. 108, dated 20-5-1996. It is the submission of the State that the petitioner merely imports LPG and the same is filled in their units in the containers named as LPG cylinders. Therefore, the petitioner's industrial units are not engaged in any manufacturing activity. LPG is not manufactured by the petitioner. The petitioner's industrial units/factories do not have any refinery or machinery to manufacture the gas. From the counter-affidavit it appears that the assessing officer issued a show cause notice on 13-12-1997 and got the same served on the same day. On 18-12-1997 the petitioner filed adjournment letter requesting for grant of some-time. The petitioner without any reason or justification wilfully avoided to file its objections to the said show cause notice.

56. From the averments made in the affidavit filed in support of the writ petition, it is difficult to discern the reason for filing of the writ petition. In the affidavit, it is even stated that the Assistant Commissioner of Commercial Taxes, Vigilance, Panjagutta even passed a provisional assessment order dated 18-3-1998. Demands have been raised. The petitioner instead of availing the remedies challenging the assessment orders, had chosen to file the present writ petition seeking a writ of mandamus declaring that the petitioner is entitled for the benefit as provided for under G.O. Ms. No. 117, dated 17-3-1993 and G.O. Ms. No. 108, dated 20-5-1996.

57. W.P. No. 2215 of 2000 has been filed on 30th October, 1999 and the petitioner got it numbered in the month of February, 2000. In the said writ

petition, the notice dated 12-10-1999 issued by the Commercial Tax Officer, Begumpet Circle, Hyderabad requiring the petitioner to pay huge amounts specified therein is challenged. The said notice is mainly based upon the fact that the Commercial Tax Department noticed that the petitioner had availed incentives on bulk as well as LPG imported from other countries also and apart from the fact that the bottling of LPG does not come under the manufacturing activity. The notice refers to the provisional assessment orders for the years 1995-96, 1996-97 and 1997-98 levying the sales tax on the sales of LPG in bulk, packed and adaptors. Action was initiated to collect the amounts. In the meanwhile, the petitioner-company filed W.P.No. 30015 of 1998 and obtained interim order, the details of which are not required to be noticed. This writ petition is solely based upon and on the same grounds as in W.P.No. 30015 of 1998. The fact remains that by virtue of the interim orders granted by this Court from time to time the petitioner so far did not pay the huge amount of sales tax arrears.

58. In W.P.No. 2242 of 2000 the petitioner - M/s. Shri Shakti LPG Ltd, challenges the Memo dated 7-3-1998 issued by the Commissioner of Industries rejecting the request of the petitioner to issue final eligibility certificate for sales tax exemption. In the order, it is made clear that the activity undertaken by the petitioner-company is not of any manufacturing activity. The application for sanction of sales tax exemption was accordingly rejected. The General Manager, District Industries Centre, East Godavari issued consequential proceedings dated 3-2-2000 rejecting the claim application of the petitioner for grant of incentives.

59. Shorn of all the details and embellishments - the question is as to whether the petitioner is entitled for the deferment/ tax holiday on sales tax in terms of G.O. Ms. No. 108, dated 20-5-1996?

60. The answer to the said question results in disposal of all the writ petitions.

61. Sri E.Manohar, learned Senior Counsel appearing on behalf of the petitioner in this group of writ petitions filed by the same petitioner, while adopting the submissions made by Sri S. Ganesh, learned Senior Counsel appearing on behalf of the petitioner in W.P.Nos.24303 and 26797 of 2000, submitted that the respondents are estopped from refusing to grant benefits under G.O.Ms.No. 108, dated 20-5-1996. The learned Senior Counsel invoked the doctrine of "promissory estoppel" in support of his submission. It is also, though mildly, contended that the respondents cannot impose liability upon the petitioner for payment of sales tax for the reason that the petitioner had never collected any such sales tax from the consumers while marketing the LPG.

62. It is totally unnecessary to recapitulate as to what we have stated in the preceding paragraph dealing with the question as to whether the petitioner manufactured any product as such in its new industrial units. We have already expressed our opinion.

63. The only question that remains to be considered is as to whether the

respondents are estopped from recovery of the specified amounts of sales tax from the petitioner?

64. The whole submission is based upon the proceedings of the Commissioner of Commercial Taxes dated 30-9-1996 whereunder the Commissioner requested the Deputy Commissioner (CT), Punjagutta Division to permit the sales tax deferment in accordance with G.O. Ms. No. 117, dated 17-3-1993. The said letter itself is based upon the final eligibility certificate granted by the Commissioner of Industries, Hyderabad for grant of sales tax deferment. Similar is the letter dated 10-10-1996 by the same Commissioner of Commercial Taxes to the same effect requesting the Deputy Commissioner to permit the sales tax exemption in accordance with G.O. Ms. No. 108, dated 20-5-1996 for the amounts specified therein. Both the said proceedings of the Commissioner of Commercial Taxes are based upon the eligibility certificates issued by the Commissioner of Industries. The fact remains that the Commissioner of Industries himself realises that the activity of LPG bottling does not come under the definition of "manufacture" and accordingly cancelled even the temporary eligibility certificate initially issued.

65. The question as to whether the petitioner is entitled for the benefit of the said proceedings is inter related to the question as to whether the petitioner is entitled for the benefit of deferment/tax holiday on sales tax in terms of G.O. Ms. No. 108, dated 20-5-1996.

66. The learned Senior Counsel relied upon the decisions of the Supreme Court in Assistant Commissioner of Commercial Taxes (Asst.) Dharwar and Others Vs. Dharmendra Trading Company and Others, , and Amrit Banaspati Co. Ltd. and another Vs. State of Punjab and another, , in support of his submission. The facts in Dharmendra Trading Co. (supra) are that the Government of Karnataka with a view to encourage the rapid industrialisation, vide its order dated 30th November, 1996 issued directions indicating the incentives that would be given to the entrepreneurs starting new industries in the Mysore State. Under the said order, the cash refund was allowed on all sales tax paid by a new industry on raw materials purchased by it for the first five years from the date the industry goes into production, eligibility to the concessions being determined on the basis of a certificate to be issued by the Department of Industries and Commerce. By another order dated 11th August, 1975, the procedure was prescribed for obtaining the concessions. On 12th January, 1977 the Government issued another order which recited that the reasons for making the said order dated 12th January, 1977 were that the scheme of concessions adopted by the Government earlier had given room for many types of misuse and the earlier orders had not prescribed any ceiling limits or restrictions on the quantum of refund of sales tax or concessions to be granted. The Government accordingly limited the concession of refund of sales tax on raw material to 10 per cent of the cost of fixed assets per year, thus not exceeding the total of 50 per cent over a period of five years for which the concession is available. Several persons claimed that they had started new industrial units in the State on the assurance

extended or because of the concessions granted to them, inter alia, under the said order dated 30th June, 1969. They have invoked the doctrine of promissory estoppel. The High Court upheld their contention and held that the Government was not entitled to go back on that promise as it had sought to do by the order dated 12th January, 1977. The Government did not file any counter-affidavit in the matter. In the circumstances, the Supreme Court observed that there is nothing to show that any misuse was made of these concessions or undue advantage of the same was taken. In that context, the Supreme Court observed:

"It is well settled that if the Government wants to resile from a promise or an assurance given by it on the ground that undue advantage was being taken or misuse was being made of the concessions granted the Court may permit the Government to do so but before allowing the Government to resile from the promise or go back on the assurance the Court would have to be satisfied that allegations by the Government about misuse being made or undue advantage being taken of the concessions given by it were reasonably well established. In the present case, there is nothing on record to show that any such misuse was being made or undue advantage taken of the said concessions by the newly established industries. The Government, had, therefore, failed to establish the requisite ground or the basis of which it might be allowed to go back on its promise. The first submission of the learned Counsel for the appellants must, therefore, fail."

67. The Supreme Court was not impressed by the plea taken by the Assistant Commissioner of Sales Tax and Deputy Commissioner of Sales Tax, who are the functionaries of the State, contending that concession granted by the State itself was beyond the powers of the State.

68. The decision of the Supreme Court in *Amrit Banaspati Co., Ltd.* (supra), in no manner, supports or advances the submissions made by the learned Senior Counsel. The facts as evident from the said judgment are that a brochure was issued by the Government of Punjab announcing its "New Policy" that incentives and concessions one of them being refund of sales tax would be available to those persons who set up selective large scale industries in specified area and acting on its representative of an industrialist met the Chief Minister personally and found that he was interested in encouraging the manufacturing unit the industrialist wanted to set up in the State and, therefore, Manager of the industrialist wrote a letter to the Chief Minister expressing willingness to set up the unit provided the concessions were made available to it. The Director of Industries assured the industrialist that the concession as announced shall be available and further informed the industrialist that the Government was willing to consider such additional concession which the industrialist may require for implementation of the scheme and it was followed by exchange of correspondence and various meetings between industrialist's representatives and officials of the Government. There was a representation to the industrialist that it would be entitled to concession and incentives announced by the

Government if it set up its unit in the prescribed area. The Supreme Court held that any agreement for refund of sales tax due under the Act to individual being contrary to public policy was void u/s 23 of the Contract Act. The constitutional requirements of levy of tax being for the welfare of the society and not for a specific individual the agreement or promise made by the Government was in contravention of public purpose thus violative of public policy. The scheme of refund of sales tax was incapable of being enforced in a Court of Law.

69. We fail to appreciate as to how the said judgment would support the case set up by the petitioner.

70. In the instant case, we are required to notice that there is no promise as such made by the State or its instrumentalities to the petitioner in any manner whatsoever assuring that necessary exemptions/deferment of sales tax would be granted in its favour. Neither G.O. Ms. No. 117, dated 17-3-1993 nor G.O. Ms. No. 108, dated 20-5-1996 and the guidelines issued therein deal with grant of exemption from payment of sales tax in favour of any of the industries undertaking the activity of filling of LPG into various sizes of cylinders in their factories. Both the G.Os, are in the nature of policy statements of the State Government announcing certain exemptions/benefits of deferment of sales tax on the products manufactured by the new industrial units. Deferment/tax holiday on sales tax is with reference to sales tax on products manufactured in the new industrial units. Therefore, the question that falls for consideration is as to whether any products as such are manufactured in the industrial units of the petitioner. The question is application of the very policy pronounced by the State Government and as to whether the petitioner is entitled for the benefit of said policy decisions. In our considered opinion, the doctrine of promissory estoppel has no application whatsoever to the fact situation on hand. If it is found that there is an element of "manufacture" involved in the process of filling up of LPG into specified sizes of cylinders, the petitioner, undoubtedly, would be entitled for the benefit of deferment/tax holiday on sales tax. If no products are manufactured in the new industrial units of the petitioner they shall not be entitled for the benefit of any such deferment/tax holiday on sales tax.

71. It is, therefore, clear that there is no element of any specific promise as such given to the petitioner to the effect that it shall be entitled to deferment/tax holiday on sales tax, whether any products are manufactured or not in its new industrial units. The principles of promissory estoppel invoked are totally inapplicable. It is not a case where the Government having granted certain benefits to the petitioner made an attempt to withdraw the same on the ground that the benefits have been misused by some of the industrial units as has been in the case of Dharmendra Trading Co. (supra).

72. For the aforesaid reasons, we do not propose to burden this judgment with various pronouncements of the "Supreme Court dealing with the principle of promissory estoppel.

73. Sri E. Manohar, learned Senior Counsel, however, relied upon the decision of a Division Bench of this Court in *Coromandel Fertilisers Ltd. Vs. C.T.O., Company Circle, Punjagutta Division, Hyderabad and Another*, in support of his submission that the petitioner cannot be made liable to pay the sales tax since it did not collect any amount towards the sales tax- as it could not have -in view of the provisional eligibility certificate issued by the Manager, District Industries Centre. It is submitted that imposing of such liability upon the petitioner would be unjust and oppressive.

74. The facts as evident from the said judgment may briefly noted for the purpose of appreciating the principle, if any, laid down in the said judgment. The Government of Andhra Pradesh in exercise of the power u/s 9 of the Andhra Pradesh" General Sales Tax Act granted reduction in the rate of sales tax to the manufacturers of cement in Andhra Pradesh by issuing three orders. In G.O. Ms. No. 76, dated 24-1-1987 rate of sales tax was reduced to 4% on cement sold to Government and Government Companies. In G.O.Ms.No. 77, dated 24-1-1987 the rate of sales tax was reduced to 4% on cement sold to manufacturers of cement products. Likewise, in G.O. Ms. No. 78, dated 24-1-1987 the rate of sales tax under the Central Act was reduced to 2% on inter-State sales of cement whether or not the returns were accompanied by C-Form. The validity of the orders passed by the State Government was questioned by India Cement Company, Madras in the Supreme Court in *Indian Cement and Others Vs. State of Andhra Pradesh and Others*, . The Supreme Court quashed the said G.Os., on various grounds as being violative of Articles 301, 303 and 304 of the Constitution of India. The Commercial Tax Officer made provisional assessment and raised demand for arrears of tax representing the difference between the statutory rules and the concessional rules. The validity of the said orders of provisional assessment has been assailed in the writ petition. This Court after referring to various earlier judgments of the Supreme Court observed:

".....where orders issued by the Government under the Sales Tax Act favouring sales of indigenous products at reduced rates of tax, are found to be illegal and unconstitutional, the past transactions which took place on the strength of the impugned orders were directed not to be reopened. However, in *India Cement's* case (supra) there is no observation of the Supreme Court to the effect that the past transaction will not be affected, but it must be noted that the persons who questioned the notification were not the persons who were affected by quashing of the impugned notifications. The persons who were affected by the quashing of the notifications were not before the Supreme Court. Having regard to the consistent orders passed by the Supreme Court in similar matters, it may reasonably be assumed that had a representation been made by the affected parties in the Supreme Court, a like direction would have been issued in their favour. Be that as it may, it has been found above that when G.O. Ms.Nos.76, 77 and 78 were in force, the petitioners did not collect any amount towards sales tax over and above the concessional rates prescribed in the said orders. We, therefore, feel that it would be unjust and unreasonable to permit the

respondents to collect the amounts of difference of sales tax on the basis that the said G.Os., were not in force during the said period."

75. The observations so made in the said order may have to be confined to the fact situation.

76. We have already noticed that except the so-called provisional final eligibility certificate granted by the Manager, District Industries Centre there is no restriction as such imposed by any authority directing the petitioner not to realise the sales tax. We have already noticed the law declared by the Supreme Court that payment of sales tax under the provisions of the Andhra Pradesh General Sales Tax Act is upon the dealer. The fact whether he has collected the sales tax or not is immaterial.

77. For the aforesaid reasons, we are of the considered opinion that the writ petitions are totally devoid of any merit.

78. The Writ Petitions fail and shall accordingly stand dismissed with costs.

79. Consequently, the interim orders earlier granted by this Court shall accordingly stand vacated.

80. Immediately after pronouncing the judgment, learned Counsel for the petitioners made an oral application for grant of a Certificate under Article 134A of the Constitution of India. In our considered opinion, no substantial question of law as to the interpretation of the Constitution is involved in this case. The oral application is accordingly dismissed.