(1989) 08 GUJ CK 0013

In the Gujarat High Court

Case No : Letters Patent Appeal No. 249 of 1984 in Special Civil Application No. 959 of 1983

Yeast Alco Enzymes Limited — APPELLANT

Vs

State of Gujarat and Others — RESPONDENT

Date of Decision : 17-08-1989

Acts Referred:

Citation : (1990) 1 GLR 362

Hon'ble Judges : V.H. Bhairavia, J;S.B. Majmudar, J

Bench : Division Bench

Advocate : S.K. Zaveri, for the Appellant; J.M. Thakore, Advocate-General, for the Respondent

Judgement

S.B. Majumdar, J.—This letters patent appeal under clause XV of the Letter Patent is directed against the decision of V. V. Bedarkar, J., in

Special Civil Application No. 959 of 1983. The learned single Judge partly allowed the Special Civil Application in favour of the present appellants

who are the original petitioners. The appellants feeling aggrieved by that part of the judgment of the learned Judge by which their claim for being

awarded pioneer unit benefits under the Government resolution dated 27th August, 1980, at annexure B to the petition, has been rejected, have

moved the present appeal. The respondent-authorities have not filed any cross-appeal and have acquiesced in the decision of the learned single

Judge allowing the writ petition partly and in granting some of the benefits to the appellants under the very same resolution. As the appellants are

the original petitioners and the respondents are the original respondents in the writ petition, for the sake of convenience, we will refer to the

appellants as the petitioners and respondents as original respondents in the later part of this judgment.

2. In order to highlight the grievance of the petitioners, in the present proceedings, it is necessary to note a few introductory facts.

3. Introductory facts. - The petitioner-company was initially incorporated as Gohilwad Sugar Mills (Private) Limited under registration No. 2058

dated 29th March, 1972. Subsequently, its name was altered into Yeast Alco Enzymes (Private) Limited. The said company came to be converted

into a public limited company under a certificate issued on 9th July, 1973. The registered office of the company is at Ahmedabad but it carries on

its works near Shetrunjaya Dam Site, Palitana in the district of Bhavnagar.

4. The company when it was Gohilwad Sugar Mills (P.) Ltd., purchased the assets of M/s. Patel Sugar Mills at the cost of Rs. 21 lacs. The said

assets consisted of Khandsari unit with the land at village Moti Paniali in Palitana taluka of Bhavnagar District. When the company was running

khandsari unit at Moti Paniali, it decided to have new project of industrial alcohol and for that purpose, purchased lands nearby within the revenue

limits of another village Nani Paniali, with a view to constructing building for the factory premises for new plant of alcohol. In the meantime,

working of khandsari unit came into difficulties and by the end of 1977, the work of khandsari unit came to a grinding halt. In the meantime,

petitioner No. 2 joined as a director of the company in the year 1977-78 and tried to boost up the work of khandsari unit but his efforts failed. It

could work for a few days in January 1978 and thereafter it got closed. The company had not made any major further investment after it was

purchased from Patel Sugar Mills and when khandsari unit was working, it used to employ about 60 to 70 persons during the season. Under the

circumstances, the company diverted its attention to new alcohol project. For that purpose, the work of factory building was undertaken. But the

plant as such could not be commissioned earlier. Originally, the new project of industrial alcohol was proposed to be with a capacity of 15,000

litres per day and DGTD registration was so obtained in 1976, but the company had never stated commercial production of industrial alcohol in

those days.

5. That three Company Petitions Nos. 51 of 1976, 24 of 1977 and 20 of 1978, came to be filed against the company by M/s. Tata Press Limited,

Bombay, Gannon Dunkerley and Company Limited land Gujarat State Financial Corporation, Ahmedabad, respectively, in this Court. In addition

to these winding up petitions, one of the secured creditors of the company M/s. Dena Bank, filed Civil Suit No. 10 of 1978, in Bhavnagar court to

recover its dues. Some other suits were also filed by other creditors against the company in different courts. Petitioner No. 2 after he joined as a

Director of the company moved this Court and submitted a scheme for revival of the company, being Company Petition No. 24 of 1979. This

Court (Coram : A. M. Ahmadi, J.), approved the scheme by judgment and order dated 14th July, 1980. The scheme of compromise and

arrangement sanctioned by this Court envisaged a scheme for increase in the production capacity in respect of production of industrial alcohol from

15,000 litres to 30,000 litres per day. The original scheme when submitted was estimated to cost Rs. 40 lacs, but after its sanction in July 1980,

due to escalation of price not only of the materials for construction of the plant but also in respect of machinery and other equipments for the

project, the estimated cost increased to Rs. 1.40 crores. It required the new management to increase capacity of the new alcohol project from

30,000 litres per day to 50,000 litres per day. The petitioner-company thereupon approached the Industries Commissioner for enhancement of the

quota in the allotment of molasses and the Industries Commissioner approved the increased capacity to 50,000 litres per day and registered the

requirement of molasses of 64,000 M.T. The company made all efforts to get necessary finance from the financial agencies so that new project of

industrial alcohol could be commissioned at village Nani Paniali. The respondent-State of Gujarat in the Industries, Mines and Power Department

had issued resolution dated 27th August, 1980, offering package of new incentives and enhancement of available incentives to new industrial units.

It envisaged a scheme which was styled as New Sales Tax Incentives Scheme for Industries. It is the case of the petitioner as they wanted to

establish a new large scale industrial unit in the backward area of Palitana taluka of Bhavnagar district, they were entitled to the benefit of the

aforesaid scheme especially para 7 thereof which envisaged a special incentive for pioneer units. According to the petitioner-company, new large-

scale project of industrial alcohol which the petitioner wanted to establish at village Nani Paniali as aforesaid, was a pioneer unit and, therefore, the petitioner company was entitled to all the incentive benefits as made available to the concerned units by the said resolution of the first respondent.

The petitioner''s efforts to get the proposed new unit registered as pioneer unit under the incentive scheme envisaged by the aforesaid resolution,

however, failed. The second respondent was not prepared to treat the petitioners'' project of industrial alcohol as pioneer unit under the said

resolution. The petitioners'' contention was that it is at the instance of the third respondent, who was the then Chief Minister of the Gujarat State,

that the said request of the petitioner-company was not granted and that the action of the respondents in that connection was vitiated by mala fides

of respondent No. 3. It is in these circumstances that the petitioner landed in this Court by way of the aforesaid special civil application.

6. The petition was resisted by the respondents both on the ground that the petitioners were not entitled to the benefit of the Government resolution

dated 29th August, 1980, at annexure B to the petition as amended from time to time and also on the ground that the petitioners'' contention of

mala fides against respondent No. 3 was misplaced and without any basis and for that purpose, affidavits-in-reply were filed by the respondents.

7. Bedarkar, J., who heard the petition finally, reached the conclusion that the petitioners'' case about mala fides of respondent No. 3 was not

made out and that such case was not very much pressed at the stage of arguments by the learned Advocate for the petitioners. But so far as merits

of the petitioners'' case centering round applicability of Government resolution dated 27th August, 1980, was concerned, the learned Judge held

that the petitioners were entitled to the benefits of sales tax incentive being sales tax deferment incentives as envisaged by para 6 of the said

resolution read with para 3 thereof. However, the learned Judge further held that so far as the special incentives for pioneer unit contained in para 7

of the resolution were concerned, they would not be available to the petitioners'' unit of industrial alcohol. In view of that conclusion, as noted

above, the learned single Judge partly allowed the petition and partly rejected the same, and that is how, the present appeal has seen the light of the

day.

8. Mr. Zaveri for the appellants-petitioners raised the following contentions in support of the appeal :

1. That the action of the respondents in not giving the benefit of resolution to the petitioners was actuated by mala fides of respondent No. 3 and

hence, it must be held that the petitioners were entitled to the benefit of all the relevant paras of the said resolution.

2. It was alternatively contended that in any case, the learned Judge has committed a patent error of law in holding that benefit of para 7 of the

resolution cannot be made available to the petitioners'' unit and consequently, the petitioners were entitled to the reliefs as prayed for in prayer (A)

of para 31 of the petition.

9. The learned Advocate-General for the respondents has resisted these contentions and submitted that there is no substance in any of these

contentions and the appeal is liable to be dismissed.

10. Having given our anxious consideration to these rival contentions of the parties, we have come to the conclusion that the second contention

made out by Mr. Zaveri is well-sustained and the appeal deserves to be allowed in the light of that contention. However, so far as the first

contention is concerned, there is no substance in the same. Our reasons for the aforesaid conclusions are as under :

Contention No. 1. - So far as allegation of mala fides of respondent No. 3 is concerned, it must be noted that the learned single Judge in the

second para beginning at page 5 of his judgment and ending at page 7 has noted that during the arguments, case of mala fides against respondent

No. 3 was not pressed. He has also noted that there is no scope to consider this allegation to have been substantiated by any substantial data on

the record of the case. We have carefully gone through the reasoning adopted by the learned Judge in that para dealing with plea of mala fides of

respondent No. 3. We find that the learned Judge was not inclined to placed any reliance on the word of the petitioners in the petition on this

aspect as it stood controverted by the affidavit-in-reply filed by the then Chief Secretary Mr. Sivagnanam as well as respondent No. 3 ex-Chief

Minister Mr. Madhavsinh Solanki himself. The learned Judge also placed reliance on the clear-cut denial made by respondent No. 3 in his

affidavit-in-reply about the alleged groupism between the parties. We have also gone through the relevant data on the record of the case in this

connection and having seen these relevant affidavits, we are also inclined to accept the finding of the learned single Judge so far as plea of mala

fides of respondent No. 3 is concerned. We fully concur with the reasoning and findings reached by the learned Judge on this aspect. In our view,

no case is made out by the petitioners about alleged mala fides of respondent No. 3 so far as the petitioners'' grievance about non-recognition of

the petitioners'' unit as pioneer unit for sales tax benefit under the above resolution is concerned. The first contention is, therefore, rejected.

11. Contention No. 2. - However, so far as this contention is concerned, a patent error of law and facts is discernible from the reasoning adopted

by the learned single Judge in rejecting the petitioners'' case for being granted benefit as pioneer unit as per para 7 of the resolution at annexure B.

We may, in the first instance, turn to the relevant provisions of the resolution in the light on which the petitioners'' contention will have to be

appreciated. As stated earlier, it is a resolution dated 27th August, 1980, issued by the Government of Gujarat in Industries, Mines and Power

Department. It deals with the topic of enhancement of package of new incentives to industries. Its preamble provides that the Government have

introduced a package of incentives for promotion of industries in rural and backward areas to achieve a more balanced growth and avoid further

congestion of developed areas and large cities effective from 1st November, 1977, vide Government resolution dated 22nd December, 1977.

Under the said resolution of 1977, package of twofold incentives was given (1) cash subsidy on fixed capital investment and (2) sales tax benefit in

terms of either exemption from sales tax or interest-free sales tax loan (to be referred to as Old Sales Tax Incentives Scheme). Retaining the cash

subsidy on fixed capital investment, further scheme of incentive by way of sales tax benefit was sought to be offered by this resolution. The scheme

was titled as New Sales Tax Incentives Scheme for industries which was to commence from 1st June, 1980 and was to remain in force for a

period of five years, i.e., up to 31st May, 1985. Para 3 of the said resolution dealt with applicability of the scheme and the eligibility provisions for

benefit under the scheme. It was laid down that new industrial project including expansion/diversification by existing units commissioned (i.e. which

have started commercial production) on or after 1st June, 1980, shall be eligible to opt for sales tax benefits under this scheme in lieu of old sales tax incentive scheme. Industrial Commissioner, viz., respondent No. 2 or an officer authorised by him was to be the competent authority to issue

eligibility certificate. Para 6 dealt with sales tax incentives which were to consist of (1) sales tax exemption incentives and (2) sales tax deferment

incentives. All industrial units eligible as per paras 2 and 3 of the resolution will have an option to choose one of the above sales tax incentives. It is

not in dispute that the petitioners have opted for their industrial alcohol unit, to get benefit of sales tax deferment incentives as envisaged by para

6(A). This benefit has been made available by the learned single Judge to the petitioners and there is no more controversy on this aspect between

the parties as that part of the judgment has become final. Then follows para 7 with which we are concerned in this appeal. As the controversy

centres round the correct interpretation of this para and its applicability to the petitioners'' unit, it will be profitable to extract para 7 in extenso

herein

(7) Pioneer Units - special incentives for. - Recognising the need for some special incentives for large industrial units going to a completely new

location in backward areas so as to compensate for extra economic burden/ handicaps involved to such pioneer units, Government is pleased to

direct that such units will be eligible for incentives admissible at a C grade growth centre. In addition to this under the scheme of sales tax

incentives, they will be given extra benefit equivalent to 10% of the fixed assets or Rs. 10 lakhs whichever is less. This special incentives will be

available to the 1st, 2nd and 3rd units in such areas. Such units should fulfil the following conditions for being entitled to benefit of a pioneer unit :

(i) The project should involve investment in fixed assets of atleast Rs. 50 lakhs or should give an employment to 100 workers on a permanent

basis.

(ii) The locations could be anywhere in the 10 backward districts or the 21 underdeveloped talukas suggested by the committee of non-backward

districts. (Please see annexure A to the Government resolution.)

(iii) Such units should be 1st, 2nd or 3rd in such location, i.e., at the particular location (i.e., town or village) and areas 8 kms. around it, not more

than two units having fixed assets of Rs. 50 lakhs or more should be existing.

(iv) This location should be beyond 24 kms. of municipal limits of Ahmedabad and Baroda and 10 kms. of Surat, Rajkot, Bhavnagar and

Jamnagar and not having population of more then one lakh.

12. It would be profitable to look at this stage to certain later developments in connection with the aforesaid resolution.

13. By resolution dated 13th March, 1981, of the State of Gujarat in the same department, earlier limits on the available special incentives under

para 7 of the resolution dated 27th August, 1980, to pioneer units were enlarged and it was decided to give full sales tax incentives to these

pioneer units without any ceiling limit on the amount of incentives which was earlier envisaged by parent resolution dated 27th August, 1980 and by

this resolution, sales tax benefits to pioneer units would be available without any ceiling limit on the amount up to 90% of the investment in gross

fixed assets. As in these proceedings, we are concerned with availability of benefits as pioneer unit to the petitioners'' new alcohol project under

para 7 of the parent resolution dated 27th August, 1980, we have to consider the petitioners'' case for the said benefit as envisaged by the parent

resolution dated 27th August, 1980, as partially modified by later resolution of 13th March, 1981.

14. On 31st March, 1981, by later resolution, issued by the Government of Gujarat in the same department, resolution or 27th August, 1980, was

amended. Resolution of 31st March, 1981, provided that in partial relaxation of the distance restriction around the metropolitan cities, areas of

Hathi committee backward talukas and centrally notified backward districts (annexure I) falling within the limits of 24 kms. from municipal limits of

Ahmedabad and Baroda cities and 10 kms. of Surat, Rajkot, Jamnagar and Bhavnagar cities would now be eligible for full incentives under the

incentives scheme, subject to the restrictions laid down in the said resolution. We are not concerned with the resolution dated 31st March, 1981,

as it is an admitted position between the parties that so far as the petitioners'' alcohol unit at village Nani Paniali in Palitana taluka of Bhavnagar

district is concerned, even the earlier resolution dated 27th August, 1980, covered the area where the petitioners'' unit is situated and, therefore,

extended coverage became irrelevant so far as the present controversy is concerned.

15. We may also refer to a clarificatory notification issued on 5th November,

1981 (annexure L to the petition) and circular dated 8th February,

1983, at annexure M to the petition. They sought to clarify that there should be no industry having such investment or employment which had gone

into commercial production before 1st June, 1980, within a radius of 8 kms. It is not in dispute between the parties that no industry having similar

investment or employment which the petitioners were offering at their industrial alcohol project at village Nani Paniali existed within the radius of 8

kms. of that village and which had gone into commercial production before 1st June, 1980. Consequently, these clarificatory circulars are not

relevant so far as the present case is concerned. The last circular at annexure M is dated 8th February, 1983, whereby it is clarified that pioneer

units should not be expansion, diversification or modernisation or renovation of an existing unit. It should also not be revival of a sick unit whether

by the existing or new management or whether the rivival involves expansion, renovation, modernisation or diversification or not. Even this circular

has no application to the facts of the present case for the simple reason that earlier khandsari unit which was a small unit was already closed and

had gone out of production by the year 1978. So far as alcohol project is concerned, it was not an expansion, diversification or modernisation or

renovation of an existing unit by the petitioners nor would it amount to revival of a sick unit as the earlier khandsari unit which was sick had gone

dead in the year 1978. Industrial alcohol project for which benefits under the Government resolution at annexure B were claimed was entirely a

new project having no connection whatsoever with the old khandsari project which had only historical importance. It must be stated that the

learned Judge has not placed any reliance on these subsequent circulars at annexures L and M for holding that the petitioners were not entitled to

the benefit of para 7 of the resolution at annexure B. In fairness to the learned Advocate-General who appeared for the respondents, he also did

not place reliance on these later circulars for judging the of the claim petitioners in the present petition. We need not, therefore, dilate any further on

these subsequent circulars at annexures L and M which are found to be totally irrelevant on the facts of the present case.

16. Now the stage is reached for coming to the grip of the problem. The learned single Judge while considering the applicability of para 7 of the

resolution at annexure B, took the view that benefit of this para cannot be made available to the petitioners for the simple reason that the

petitioners'' unit was not industrial unit which was going to a completely new location in backward area. He was of the view that earlier, the

petitioners had a khandsari unit in the same area and even though it was closed, the petitioners were not novice or new comer in the area and

therefore, when they wanted to establish a large industrial unit of alcohol project at village Nani Paniali, they cannot be said to be pioneers in the

area. We will presently show that the said reasoning of the learned single Judge, with respect, is not apposite. We have already extracted para 7 of

the resolution at annexure B. To recapitulate, the following conditions must be satisfied by the concerned unit before it can get the benefit of para 7

of the Government resolution at annexure B conferring special incentives for pioneer units :

1. The concerned large-scale industrial unit must be going to a completely new location in backward area as indicated in this resolution which of

course will have to be read in the light of the later extension of benefits as conferred by subsequent modificatory resolution dated 13th March,

1981, to which we have made a reference earlier.

2. The project should involve investment in fixed assets which should be of at least Rs. 50 lakhs or should give employment to 100 workers on a

permanent basis.

3. The location should be anywhere in the 10 backward districts or 21 underdeveloped talukas suggested by Hathi committee of non-backward

districts or in area as per later extension of coverage by the Government resolutions of 13th March, 1981 and 31st March, 1981.

4. Such units should be 1st, 2nd or 3rd in such location, i.e., at the particular location (i.e., town or village) and areas 8 kms. around it, not more

than two units having fixed assets of Rs. 50 lakhs or more should be existing.

5. This location should be beyond 24 kms. of municipal limits of Ahmedabad and Baroda and 10 kms. of Surat, Rajkot, Bhavnagar and Jamnagar

and not having population of more than one lakh.

17. So far as the above conditions are concerned, conditions Nos. 2 to 5 are satisfied by the petitioner-company and there is no dispute on this

aspect. It has to be kept in view that new industry was to be established by the petitioners at village Nani Paniali which was admittedly situated in a

backward district as suggested by the Hathi committee on non-backward district, even, leaving aside the expansion of area by subsequent

modificatory resolutions. It is not in dispute that new project had investment of more than Rs. 50 lakhs and it was also true that it was to give

employment to 100 workers on a permanent basis. It is also not in dispute that new project at village Nani Paniali was the first project of its type

and no other unto having fixed assets of Rs. 50 lakhs or more was existing in that area. Admittedly, location of the project was beyond 24 kms. of

municipal limits of Ahmedabad and Baroda and 10 kms. of Surat, Rajkot, Bhavnagar and Jamnagar. Thus, conditions Nos. 2 to 5 were clearly

met by the petitioner-company and the learned Judge also held accordingly. However, in the view of the learned single Judge, the first condition

was not satisfied. The learned Judge noted that para 7 specifically mentioned that special incentive was to be given to large industrial units going to

a completely new location in backward areas so as to compensate for extra economic burden, etc. In his view, if a big company in Ahmedabad,

take for instance, the Calico Mills which is a textile industry, has its own unit in Ahmedabad, but in order to have an industrial growth in a

backward area, as contemplated by the scheme, starts a new textile unit at Moti Paniali or Nani Paniali, then it can be said to be an industrial unit

going to a completely new location in backward area. However, so far as petitioner is concerned, earlier they had their khandsari factory (which

was closed) in that very area. In that view of the matter, according to the learned single Judge, the first condition was not satisfied and that is why

he has rejected the petitioners'' claim for being given the benefit of para 7 of annexure B. This illustration of Calico Mills given by the learned Judge

is totally inappropriate on the facts of the present case. In our view, with respect, this reasoning of the learned single Judge is not justified on the

record of the case. It has to be kept in view that even though the petitioners had their khandsari unit in nearby location at village Moti Paniali, it was

closed since 1978. It was not a large-scale unit. It was a small-scale unit. So far as the present large project of industrial alcohol is concerned, that

was being located at village Nani Paniali for the first time. It was a new industrial unit and it was a large-scale unit which was going to a completely new location in the backward area. The question is whether the petitioner''s large industrial unit of industrial alcohol was going for the first time to

the backward area or such a unit had ever gone there earlier and, therefore, it can be said that it was not going to a completely new location for the

first time. The learned Judge has posed the question as under :

The important aspect to be considered is whether the new industrial unit is going to a completely new location in backward areas.

18. And, then, he has observed that it is not completely answered in favour of the petitioners. With respect, posing of the question by the learned

single Judge is not accurate. So far as the first condition for applicability of para 7 of the resolution is concerned, it is to the effect that the new large

industrial unit should be going to a completely new location in the backward area. Therefore, the correct question which could have been posed on

the facts of the present case was, as to whether new large industrial unit was going to a completely new location in the backword area or not.

Unfortunately, the learned Judge missed the work ""large"" and unduly emphasised the aspect of the new industrial unit going to a completely new

location in the backward area. If the learned Judge has posed the above question in the proper perspective, the answer would have been in

affirmative in favour of the petitioners. On the facts of this case, no doubt is left in our mind that the large industrial unit of industrial alcohol was

being established in or was going to a completely new location in the backward area, viz., at village Nani Paniali. Never in the past, such a large

unit had ever gone to this area. What had gone in that area was a small unit of khandsari which was already closed since years in 1978. It is

interesting to note that all that annexure B requires is that with effect from 1st June, 1980 and up to 31st May, 1985, large industrial units which go

to a completely new location in the backward area would be entitled to special incentive as a pioneer unit. It is not in dispute and it cannot be

disputed that during this relevant period even the old small-scale Khandsari unit had never existed and it had ceased to exist prior to coming into

operation of the resolution at annexure B. However, during the relevant period, large-scale unit of industrial alcohol was being established by the

petitioners for the first time in this backward area and, therefore, it can be said that new large industrial unit of industrial alcohol was going to a completely new location for the first time during this relevant period. It is not in dispute that this large industrial unit of industrial alcohol had become

operative from 13th May, 1985. It is also to be kept in view that para 7 of the resolution seeks to confer incentives to pioneer units. Dictionary

meaning of ""pioneer"" is ""one who goes first"". Emphasis is on pioneer unit and not pioneer entrepreneur. Thus, the same entrepreneur or owner may

be entitled to benefits under para 7 if the large-scale unit established by him is the first of its kind in that area. Whether the same entrepreneur had

earlier small-scale unit in the area or not, is a totally irrelevant question for the applicability of para 7 of the resolution. With respect, the learned

single Judge has assumed that owner or entrepreneur should be pioneer and not the unit in question. This is not contemplated by the said para. We

find that all the requirements of Government resolution at annexure B were satisfied on the facts of the present case. The learned Advocate-

General for the respondents was not in a position to convince us at to how the first condition of applicability of annexure B resolution cannot apply

to the facts of the present case. We posed a question as to whether the petitioners'' large-scale unit of industrial alcohol had gone to this backward

area of village Nani Paniali for the second time or it had gone for the first time. In fairness to him, he could not submit that it had gone for the

second time. In that view of the matter, the first condition of applicability of para 7 of the resolution at annexure B must be held to have been

satisfied by the petitioners.

19. We must, therefore, hold disagreeing with the learned single Judge, that the petitioners had satisfied also the first condition for applicability of

para 7 of the resolution at annexure B. Once the conclusion is reached, the result is obvious. The petitioners would be entitled to succeed in this

petition. Final relief prayed for in the main petition at para 25(A) will stand granted to the petitioners by issuing appropriate writ, order or direction

to the respondents directing them to effect registration of the petitioners'' industrial alcohol project as a pioneer unit within the meaning of

Government resolution at annexure ''B'' and as subsequently modified by Government resolution dated 13th March, 1981, lifting the ceiling of

benefit in connection with this pioneer unit. There is no need to grant prayer 35(B) as the subsequent circulars at annexures L and M are totally irrelevant for our present purpose. The respondents are accordingly directed to give all benefits of para 7 of the resolution at annexure B to the

petitioners unit at Nani Paniali and to work out these benefits at the earliest and make them available to the petitioners'' aforesaid concern. The

appeal accordingly stands allowed. There will be no order as to costs.

20. At the time of pronouncement of judgment in open court, Mr. Zaveri for the appellants pointed out to us attachment notice u/s 200 of the Land

Revenue Code, dated 29th July, 1989, which is served on the appellant-company. He submitted that the said notice is also pursuant to the earlier

stand of the respondents that benefit of pioneer unit is not available to the appellants'' concern. As we have already held in this judgment that the

respondents will have to give benefit of para 7 of the resolution at annexure C to the appellants'' unit and to work out this benefit, the said

attachment notice will not survive. Respondents will have to reconsider the entire matter in the light of the present judgment and then proceed

further in accordance with law. Writ of this order to be sent to the Commissioner of Sales Tax for his information forthwith.

21. Appeal allowed.

