A STATE OF RAJASTHAN AND ANR.

v.

M/S. MAHAVEER OIL INDUSTRIES AND ORS.

APRIL 22, 1999

B [MRS. SUJATA V. MANOHAR, D.P. MOHAPATRA AND R.C. LAHOTI, JJ.]

Administrative Law :

C *Promissory estoppel—Oil extraction and manufacturing industry—Exemption notification dated 23.5.1987—Incentive scheme to new industries exempting from payment of sales tax—Failure of the scheme to achieve its object in oil industry—Notification dated 7.5.1990, withdrawing benefit of exemption from oil industries—Validity of—Held; supervening public interest to prevail over promissory estoppel—Government not precluded from* D *withdrawing benefit of scheme in public interest—Notification dated 7.5.1990 issued in valid exercise of power by State Government—Oil industries not entitled to claim exemption—Rajasthan Sales Tax Act, 1954—Sec. 4(2)—Central Sales Tax Act, 1956.*

E **Respondent-industry was engaged in the business of oil extraction and manufacture. Appellant-State issued a notification dated 23.5.1987, under Sec. 4(2) of the Rajasthan Sales Tax Act, 1954, exempting *inter alia,* new industrial units from payment of sales tax. Oil extracting and manufacturing industries were eligible for the benefits of the said scheme. During the subsistence of the said scheme the State Government by a notification dated** F **7.5.1990, amended the notification dated 23.5.1987. The benefits of incentive scheme was withdrawn from oil extracting and manufacturing industries both under the State Sales Tax Act and Central Sales Tax Act, 1956. Respondents, application for eligibility certificate was rejected. Thus, writ petition before High Court was filed challenging the notification dated** G **7.5.1990. Single Judge of the High Court quashed the said notification and directed the appellant to issue eligibility certificate to respondents. In the meantime, High Court in *Gopal Oil Mills** case allowed the benefit of incentive scheme, which on appeal was stayed by this Court on 4.4.1994. Subsequently, this Court in the said case upheld the validity of notification dated 7.5.1990 under the State Sales Tax Act and set aside the one issued** H **under the Central Sales Tax Act. The Division Bench of the High Court, in**

the instant case, without noticing the judgment of this Court in *Gopal Oil Mills* *case dismissed the appeal of State. Hence the present appeal. A

On behalf of the appellant-State it was contended that it was open in public interest to withdraw any concession which it may have granted under the incentive scheme.

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On the other hand, the contention of the respondents was that by framing the incentive scheme, the State had held out a promise and relying upon that promise they had taken out effective steps to set up the new industrial unit within that period. Hence on the doctrine of promissory estoppel, it would not be open to the State to withdraw the benefit of the scheme by the notification of 7.5.1990. C

Disposing of the appeal, this Court

HELD : 1. The notification dated 7.5.1990, withdrawing the benefits under the incentive scheme, was issued in valid exercise of power by the appellant-State. Thus, respondent-industries were not entitled to the benefit of the incentive scheme, exempting payment of sales tax under the Rajasthan Sales Tax Act, 1954. [807-G] D

2.1. Public interest requires that the State be held bound by the promise held out by it. But this does not preclude the state from withdrawing the benefit prospectively even during the period of the scheme, if public interest so requires. Even in a case where a party has acted on the promise, if there is any supervening public interest which requires that the benefit be withdrawn or the scheme be modified, that supervening public interest would prevail over any promissory estoppel. [805-F-G] E

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Kasinka Trading & Anr. v. *Union of India & Anr.*, [1995] 1 SCC 274; *Union of India & Ors.* v. *Godhawani Brothers & Anr.*, [1997] 11 SCC 173 and *Shrijee Sales Corporation & Anr.* v. *Union of India,* [1997] 3 SCC 398, relied on.

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2.2. In the instant case, appellant-State has pointed out in their affidavit, the experience with regard to implementation of the said incentive scheme during the years 1988 and 1989 revealed that the object of having more new industries in the areas specified could not be achieved, particularly in the case of oil industry and cotton industry. On the contrary, the policy had adversely affected existing units in the State. Since the tax liability of new H

A units was much less, and the tax liability on the old units was high, old units gradually started closing down while new units started coming up. As a result, in the two years 1988 and 1989, 64 old units were closed down and 74 new units were started. The closure of old units and their replacement by new units resulted in blocking of capital and funds invested in the old units. Therefore, in effect, the incentive scheme as operating for oil industries B was resulting in closure of existing units and substitution of the same by new units—which was never the intention of the incentive scheme. It was, therefore, decided to withdraw the benefit of the scheme in public interest in respect of oil industry. The notification of 7.5.1990, therefore, was clearly issued on account of a supervening public interest. Secondly, in the present C case the respondents do not seem to have taken steps which can be considered as effective steps for starting a new unit prior to the notification of 7.5.1990, thereby entitling them to invoke the doctrine of promissory estoppel. [806-C-F]

3. Respondent-industries cannot claim the benefit of an eligibility D certificate which was granted entirely on account of a judgment of a Single Judge in their favour which is now being set aside. Therefore, the benefits flowing from that certificate were clearly subjudice throughout and were subject to the outcome of the proceedings. However, respondents should be allowed to retain the benefits they have enjoyed upto 4.4.1994, just as the other oil industries have been allowed to retain benefits in view of the E judgment of this Court in *Gopal Oil Mills** case. But they cannot retain the entire benefit they have received beyond 4.4.1994 or upto the date of this judgment on the ground that no stay was granted by this Court while admitting the special leave petition of the appellants. [809-A-D]

F 4. The Judgment of the High Court quashing the notification of 7.5.1990 issued in respect of the incentive scheme under the Central Sales Tax Act is upheld in the light of the decision of this court in *Gopal Oil Mills** case. [809-F]

**State of Rajasthan & Anr.* v. *Gopal Oil Mills & Anr,* Civil Appeal No. G 5738 of 1994, decided by S.C. on 23.2.1995, relied on.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 669 of 1997.

From the Judgment and Order dated 14.8.95 of the Rajasthan High Court in D.B.C.S.A. No 788 of 1993.

H Prakash Shrivastava and Sushil Kr. Jain for the Appellants.

Pallav Shishodia and A.P. Medh for the Respondents. A

The Judgment of the Court was delivered by

MRS. SUJATA V. MANOHAR, J. At all material times the respondent was an industry engaged in the business of oil extraction and manufacture in the State of Rajasthan. B

By a notification dated 23rd of May, 1987 issued in the exercise of its powers under Section 4(2) of the Rajasthan Sales Tax Act, 1954, the appellant - State of Rajasthan notified a Sales Tax Incentive Scheme for Industries, 1987 (hereinafter referred to as the "Incentive Scheme") under which it exempted (inter alia) new industrial units from payment of tax on the sale of goods C manufactured by them for sale within the State of Rajasthan in the manner and to the extent and for the period as specified in that notification. The operative period of the scheme under that notification was from 5th of March, 1987 to 31st of March, 1992. It was subsequently extended to 31st March, 1997. The incentive scheme was applicable, inter alia, to new industrial units set up in areas mentioned in Annexure-A to the notification. Annexure-B sets D out a list of industries which were not eligible for the benefit of the said notification. Oil extraction or manufacture was not listed in appendix- B. Hence this industry was eligible for benefits under the scheme of 23rd of May, 1987.

By another notification dated 23rd of May, 1987 issued under Section E 8(5) of the Central Sales Tax Act the State Government notified another sales tax incentive scheme for industries exempting (inter alia) new industrial units from payment of central sales tax on the inter-state sale of goods manufactured by them within the State of Rajasthan. Under this notification also it was provided that industries listed in appendix-B would not be eligible for the F benefit of the scheme. Oil extraction or manufacture was not listed in appendix-B to this notification. Hence oil extraction units were eligible for exemption from central sales tax in respect of inter-state sale of their goods.

By a notification dated 6th of July, 1989 issued under Section 4(2) of the Rajasthan Sales Tax Act, 1954 the appellants notified Sales Tax New G Incentive Scheme for Industries, 1989, to exempt industrial units from payment of tax on sale of goods manufactured by them within the State of Rajasthan in the manner and to the extent and for the period covered by that notification. The new Incentive Scheme of 1989 was deemed to have come into operation with effect from 5th of March, 1987 and was to remain in force upto 31st of March, 1992. A similar notification of the same date was issued in respect of H

A the central sales tax exemption for the said units under Section 8(5) of the Central Sales Tax Act. Under this notification also appendix-B contained a list of industries not eligible for benefits under the said notification. Once again oil extraction or manufacture was not listed in appendix-B in either of the two notifications.

B By two notifications dated 7th of May, 1990 - one issued under the Rajasthan Sales Tax Act, 1954 and the other issued under the Central Sales Tax Act, the notifications of 23rd of May, 1987 were amended. As a result, by amendment of Annexure-B, oil extracting or manufacturing industry was added as an entry, thus withdrawing the benefits of the incentive scheme from C oil extracting and manufacturing industries both in respect of Rajasthan Sales Tax as also Central Sales Tax. Thereafter by further notifications dated 10.9.1990 issued under the Rajasthan Sales Tax Act, 1954 and the Central Sales Tax Act, it was further notified, inter alia, that whenever an industry is included on any date during the period of operation of the scheme in Annexure-B, the units of such industry which have started commercial production and whose D applications for benefit under the scheme are pending on the said date before the appropriate screening committee will be entitled to claim full benefit of the scheme.

Thus by reason of the notifications issued on 7.5.1990 the benefit of the E incentive scheme was withdrawn from oil extracting and manufacturing industries. Thereafter the position was reviewed by the Finance Department and the Industry Department of the State of Rajasthan. Ultimately by a notification dated 26.7.1991 the benefit of exemption from Central Sales Tax was restored to oil extracting and manufacturing industry to the extent of 75% in the case of new industries and to the extent of 60% in the case of industries F going for expansion or diversification. Thus new industrial units established after 7.5.1990 and before 26.7.1991 alone were not entitled to the benefit of the Incentive Scheme under the Central Sales Tax Act in respect of inter-state sales of their goods.

G The respondents commenced commercial production on 17th of February, 1991. Prior thereto, on 2.4.1991 they applied for an eligibility certificate. The appellants sent a reply dated 29.4.1991 pointing out that they were not eligible for the benefit of the incentive schemes since the benefit of the said schemes had been withdrawn with effect from 7.5.1990 in respect of their industry. The application of the respondents was finally rejected on 30.11.1991. The H respondents thereupon filed writ petition no. 2529 of 1992 before the High

Court challenging the two notifications of 7.5.1990 issued under the Rajasthan Sales Tax Act, 1954 and the Central Sales Tax Act. Several such petitions were filed between the years 1990 and 1992 by various oil industries challenging the two notifications of 7.5.1990. When the writ petition of the respondents came up for hearing before a learned Single Judge, one such petition in the case of *Govardhan Oil Mills* had already been decided by the same High Court by a Single Judge quashing the notifications of 7.5.1990. Relying on the said judgment the Single Judge granted relief to the respondents setting aside the notifications of 7.5.1990 and directing the appellants to issue an eligibility certificate to the respondents within six weeks. An appeal filed by the appellant before the Division Bench of the High Court has been dismissed by the impugned judgment dated 14.8.1995.

During the pendency of the appeal before the Division Bench in the present case, six other writ petitions filed by various oil industries including *Gopal Oil Mills* were heard by a Division Bench of the same High Court and decided on 12.1.1993. By the said judgment the High Court held that the notifications of 7.5.1990 cannot be given effect to where all necessary acts for setting up the new industry had been done prior to 7.5.1990 and production had also started. The High Court invoked the doctrine of promissory estoppel and gave relief to the six industries before it, as also new industries set up before 31.3.1992.

The appellants in those cases filed a special leave petition before this Court in which this Court on 4.4.1994 granted an interim stay of the judgment of the High Court dated 12.1.1993. Thereafter the appeals of *Gopal Oil Mills* and other appeals were decided by this Court on 23.2.1995. Before this Court, the respondents in those appeals only pressed their claim for exemption from Central Sales Tax for the period 7.5.1990 to 26.7.1991. This Court came to the conclusion that there was no public interest in withholding the benefit in respect of Central Sales Tax for the short period 7.5.1990 to 26.7.1991. Therefore, it set aside the notification of 7.5.1990 issued under the Central Sales Tax Act and upheld the High Court judgment in respect of the said notification issued under the Central Sales Tax Act. The respondents in those appeals stated that they were not pressing their challenge to the notification of 7.5.1990 issued under the Rajasthan Sales Tax Act, 1954. This Court, therefore, by the impugned judgment set aside the order of the High Court and upheld the validity of the notification of 7.5.1990 issued under the Rajasthan Sales Tax Act, 1954. However, it also held that prior to 4.4.1994, which was the date when this Court stayed the judgment of the Division Bench under challenge, any benefit

A availed of under the High Court judgment could be retained by the said industry.

In the present case, the appeal before the Division Bench was decided on 14.8.1995. The attention of the Division Bench does not appear to have been drawn to the decision of this Court in *Gopal Oil Mills* (Supra). The B Division Bench dismissed the appeal of the State of Rajasthan, the present appellants, on the ground that the respondent-industry had started its production much before 31.3.1992, relying on the earlier judgment of the Division Bench of the High Court dated 12.1.1993.

C We have to consider whether the respondents were rightly given by the High Court the benefit of the said incentive scheme in respect of exemption from Central Sales Tax as also Rajasthan Sales Tax. The notification of 7.5.1990 issued under the Central Sales Tax Act withdrawing the benefit of the scheme from oil extraction and manufacturing industries in respect of inter-state sales effected by them has already been quashed by this Court by its judgment D dated 23.2.1995 in *State of Rajasthan & Anr.* v. *Gopal Oil Mills & Anr.*, being Civil Appeal No. 5738 of 1994. In view thereof, since the respondents have started commercial production on 17th of February, 1991 during the subsistence of the said scheme, they are entitled to the benefit of the said scheme pertaining to exemption from Central Sales Tax from the date of starting their E commercial production. To this extent the judgment of the Division Bench must be upheld.

However, the respondents contend that the judgment of this Court in State of *Rajasthan & Anr.* v. *Gopal Oil Mills & Anr.*, (Supra) should not be applied to them in so far as that judgment upholds the validity of the notification F of 7.5.1990 withdrawing the benefit of the Incentive Scheme under the Rajasthan Sales Tax Act. The respondents contend that this Court did not consider the validity or otherwise of the notification of 7.5.1990 issued under the Rajasthan Sales Tax Act, on merit. This Court quashed the said notification in the said judgment merely on the basis of a concession made by the G respondent - oil industries that they were not challenging the validity of the notification of 7.5.1990 issued under the Rajasthan Sales Tax Act. The respondents are right in contending that the validity or otherwise of the notification of 7.5.1990 issued under the Rajasthan Sales Tax Act has to be examined independently in their case. They are also right in contending that its validity must be considered independently of the validity of the notification H of 7.5.1990 issued under the Central Sales Tax Act. The notification of 7.5.1990

issued under the Central Sales Tax Act was withdrawn on 26.7.1991. In the light of this fact, this Court said that there was no public interest in withholding the benefit of the incentive scheme granting exemption from Central Sales Tax from oil industries for the short period 7.5.1990 to 26.7.1991. In the case of the notification of 7.5.1990 under the Rajasthan Sales Tax Act, no subsequent notification has been issued to restore the benefit of the scheme to oil extraction industries. The ratio, therefore, on the basis of which the notification of 7.5.1990 under the Central Sales Tax Act was set aside, is not available while considering the notification of 7.5.1990 under the Rajasthan Sales Tax Act.

The appellant, State of Rajasthan, contends that it is open to it in public interest to withdraw any concessions which it may have granted to oil extraction industries under the incentive scheme. In fact, the scheme itself provides in Clause 8 that the scheme can be reviewed or amended from time to time during the subsistence of the scheme. The respondents, however, contend that by framing the said incentive scheme the State of Rajasthan had held out a promise that the benefit of the scheme would be available for all new industries set up during the period 5.3.1987 to 31.3.1992. Relying upon this promise the respondents had taken all effective steps to set up the new industrial unit within that period. Hence the doctrine of promissory estoppel would be attracted in the present case. It would not be open to the State of Rajasthan to withdraw the benefit of the scheme during the subsistence of the said scheme by the notification of 7.5.1990.

Are the respondents justified in holding the State to the promise made by it in the form of an incentive scheme which is made available for a specified period of time, when new industries are set up on the basis of that scheme relying on the promise of benefits held out by it? Public interest requires that the State be held bound by the promise held out by it in such a situation. But this does not preclude the State from withdrawing the benefit prospectively even during the period of the scheme, if public interest so requires. Even in a case where a party has acted on the promise, if there is any supervening public interest which requires that the benefit be withdrawn or the scheme be modified, that supervening public interest would prevail over any promissory estoppel.

After examining a large number of authorities, this Court in the case of *Kasinka Trading and Anr.* v. *Union of India and Anr.*, [1995] 1 SCC 274 held that when there was a supervening public interest in withdrawing the promise

A held out, the Government cannot be estopped from withdrawing the benefit held out under an existing scheme. In the case of *Shrijee Sales Corporation and Anr.* v. *Union of India*, [1997] 3 SCC 398, once again this Court after examining a number of authorities has held that if any supervening public interest so demands, the benefit under any incentive scheme can be withdrawn. The same view has been again reiterated in *Union of India and Ors.* v. B *Godhawani Brothers and Anr.*, [1997] 11 SCC 173.

The State Government has, with the permission of this Court, relied upon an affidavit in this connection which they had filed in Civil Appeal No. 5738 of 1994 *State of Rajasthan and Anr.* v. *Gopal Oil Mills and Anr.*, (Supra). C The appellant - State has pointed out that their experience with regard to implementation of the said incentive scheme during the years 1988 and 1989 revealed that the object of having more new industries in the areas specified could not be achieved, particularly in the case of oil industry and cotton industry. On the contrary, the policy had adversely affected existing units in the State. Since the tax liability of new units was much less, and the tax D liability on the old units was high, old units gradually started closing down while new units started coming up. As a result, in the two years 1988 and 1989, 64 old units were closed down and 74 new units were started. The closure of old units and their replacement by new units resulted in blocking of capital and funds invested in the old units. Therefore, in effect, the incentive scheme as operating for oil industries was resulting in closure of E existing units and substitution of the same by new units - which was never the intention of the incentive scheme. It was, therefore, decided to withdraw the benefit of the scheme in public interest in respect of oil industry. The notification of 7.5.1990, therefore, was clearly issued on account of a supervening public interest.

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Secondly, in the present case the respondents do not seem to have taken steps which can be considered as effective steps for starting a new unit prior to the notification of 7.5.1990, thereby entitling them to invoke the doctrine of promissory estoppel. The respondents rely upon the following for the purpose of invoking promissory estoppel:

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1. The respondent firm got its provisional registration certificate on 15.2.1990. This is merely a provisional registration issued by the Directorate of Industries.

2. They applied for allotment of land and land was allotted to them by H RIICO Limited, by its letter dated 19.2.1990. Possession of the land was

handed over on 7.3.1990 and lease agreement was executed in March, 1990. For this land, only an amount of Rs. 30,849 was invested. A

3. The respondent firm was registered as a partnership firm with the Registrar of Firms on 6.3.1990.

4. On 2.4.1990 the respondent firm applied for registration under the Rajasthan Sales Tax Act which was granted on 17.4.1990. B

5. A loan of Rs. 7.5 lakhs was sanctioned by the Rajasthan Financial Corporation in favour of the respondents on 17.4.1990. It is not stated how much loan was actually availed of by the respondents on or before 7th of May, 1990. C

6. Construction of building was started by the respondent on 20.4.1990 barely 3 weeks before the withdrawal of the benefit under the said scheme.

7. The respondents claim that they placed orders for machinery on 18.4.1990. It is, however, not stated whether any amount either as earnest or advance for the purchase of machinery was paid by the respondent to anybody before 7.5.1990. The respondents also claim to have applied for power connection, to have installed a transformer and to have invested about Rs. 15 lakhs in installing the industrial unit. However, there is no material to show that any of this was done prior to 7.5.1990. In fact, the respondents could commence commercial production only in February, 1991 long after the benefit of the incentive scheme had been withdrawn. Their application for eligibility certificate under the said scheme was made only on 2.4.1991 long after the benefit of the scheme had been withdrawn in respect of oil industry. In these circumstances, even if we were to hold that the doctrine of promissory estoppel can be invoked, the same cannot be invoked in the case of the respondents. D E F

In view of the withdrawal of the benefits under the said incentive scheme by the notification of 7.5.1990 which was issued in valid exercise of power by the appellant, the respondents are not entitled to the benefit of the incentive scheme pertaining to exemption from payment of sales tax under the Rajasthan Sales Tax Act, 1954. G

The respondents, however, contend that they were granted a certificate of eligibility in respect of both Central and State Sales Tax Schemes on 6.1.1993. They have enjoyed the benefit of exemption from the State Sales Tax H

A as well as the Central Sales Tax throughout as a result of the said certificate. Their unit has now closed down with effect from 31st of July, 1997. In view of the exemption granted by the appellant to the respondents under both the schemes, the respondents have not collected sales tax in respect of any of the transactions covered by the two incentive schemes. Hence, now they B should not be asked to pay any amount by way of State Sales Tax on the transactions of sale within the State during the period commencing from 6th of January 1993 (the date of grant of eligibility certificate).

The respondents also rely upon a circular dated 27.1.1994 issued by the Directorate of Industries, Rajasthan, Jaipur. This circular states that it is being C issued in view of the Rajasthan High Court's decision in the case of M/s. Goverdhan Oil Mills and M/s. Bindal Oil Mills. Since there is some confusion, it has been clarified that in view of the above judgment of the High Court all oil manufacturing units which commenced production upto 31.3.1992 are entitled to the benefit under the 1987/1989 schemes under both the Rajasthan D Sales Tax Act and the Central Sales Tax Act. We fail to see how this circular of 27.1.1994 can help the respondents. The circular was issued entirely on account of the decision of the Rajasthan High Court and was meant for implementing that decision. Appeals, however, from the judgments referred to in that circular as also similar judgments pronounced in respect of other oil industries, were filed by the State and have been finally decided by this Court E in the case of *State of Rajasthan and Anr.* v. *Gopal Oil Mills and Anr.*, (Supra). A circular, therefore, which was issued entirely to give effect to a judgment which was not accepted by the department but was appealed against, cannot be considered as conferring any permanent rights thereby. In the case of the respondents, however, they were granted an eligibility certificate F on 6.1.1993 long prior to the said circular entirely because of the directions contained in the judgment of the Single Judge dated 27.11.1992 in their writ petition. The respondents have been aware throughout that the judgment of the Single Judge was appealed against. Even after the Division Bench dismissed the appeal the matter was carried further by filing the present special leave petition/appeal before this Court. The respondents continued to G enjoy the benefits of the said two schemes since no stay was obtained. Nevertheless, the question whether the respondents are entitled to the said benefits, has been sub judice throughout. Since the appeal is now being decided against the respondents, they cannot claim the benefit of an eligibility certificate which was granted entirely on account of a judgment of a Single H Judge in their favour which is now being set aside.

The respondents, however, point out that this Court in its judgment in *State of Rajasthan and Anr.* v. *Gopal Oil Mills and Anr.*, (Supra) allowed the respondent - oil industries to retain the benefit they had obtained under the scheme framed under the Rajasthan Sales Tax Act upto 4.4.1994. This was on the ground that the stay of the impugned High Court judgment was granted by this Court only on 4.4.1994. In the present case, the respondents cannot be discriminated against. They should, therefore, be allowed to retain the benefits they have enjoyed at least upto 4.4.1994, just as the other oil industries have been allowed to retain benefits availed of upto 4.4.1994. Looking to the benefits which other oil industries have enjoyed in view of the judgment of this Court in *State of Rajasthan and Anr.* v. *Gopal Oil Mills and Anr.*, (Supra); we do not see any reason why the respondents also should not have the same benefit. They cannot, however, retain the entire benefit they have received beyond 4.4.1994 or upto the date of this judgment on the ground that no stay was granted by this Court while admitting the special leave petition of the appellants. The eligibility certificate, as far as the respondents are concerned, was given entirely on account of a judgment delivered in the course of the present proceedings, which judgment has been set aside. Therefore, the benefits, flowing from that certificate were clearly sub judice throughout and were subject to the outcome of the proceedings.

In the premises, the judgment of the High Court, in so far as it sets aside the notification of 7.5.1990 issued under the Rajasthan Sales Tax Act, 1954 is set aside and the notification of 7.5.1990 issued under the Rajasthan Sales Tax Act, 1954 is upheld as valid. The respondents, however, will be entitled to retain the benefits received by them under the incentive scheme framed under the Rajasthan Sales Tax Act upto 4.4.1994. The judgment of the High Court in so far as it quashes the notification of 7.5.1990 issued in respect of the incentive scheme under the Central Sales Tax Act is upheld in the light of the decision of this Court in the case of *State of Rajasthan and Anr.* v. *Gopal Oil Mills and Anr.*, (Supra). The appeal is disposed of accordingly. There will, however, be no order as to costs looking to the circumstances of the present case.

S.V.K.I. Appeal disposed of.