2020 INSC 186

CORRECTED

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 10636 OF 2010

M/S. NOLA RAM DULICHAND DAL MILLS &
ANR. .....APPELLANT(S)

VERSUS

UNION OF INDIA & ORS. .....RESPONDENT(S)

W I T H

CIVIL APPEAL NO. 7257 OF 2009

CIVIL APPEAL NO. 10637 OF 2010

A N D

CIVIL APPEAL NO. 7233 OF 2009

J U D G M E N T

HEMANT GUPTA, J.

Civil Appeal No. 10636 of 2010

1. The challenge in the present appeal is to an order passed by the High Court of Rajasthan whereby the writ petition filed by the appellant was dismissed. In the writ petition, challenge was to a Circular dated 21st January, 2009 on the ground that it is contrary to the Foreign Trade Policy 2004-2009[1]. Such policy is issued under Section 5 of the Foreign Trade (Development and Regulation) Act,

1 for short, 'FTP'

1992[2]. The FTP provides various schemes for providing incentives.

2. The present is a case pertaining to "Vishesh Krishi Upaj Yojna[3]" for giving incentives to promote export of fruits, vegetables, flowers, minor forest produce, dairy, poultry and their value added products. In the Scheme notified for the year 2005-06, the following exports were not to be taken into account for duty credit entitlement under the Scheme:

> "3.8 VISHESH KRISHI UPAJ YOJANA
> (SPECIAL AGRICULTURAL PRODUCE SCHEME)
>
> xx xx xx
>
> 3.8.2.2. Following exports shall not be taken into account for duty credit entitlement under the scheme:
>
> (a) Export of imported goods covered under Para 2.35 of the Foreign Trade Policy or exports made through transshipment.
>
> (b) Deemed exports (even when payments are received in Free Foreign Exchange and payment is made from EEFC account)."

3. However, in the Scheme notified for the year 2006-2007 on 7th April 2006, clauses 3.8 and 3.8.2.2 were changed. The clauses read as under:

> "3.8 VISHESH KRISHI AND GRAM UDYOG YOJANA
> (SPECIAL AGRICULTURE AND VILLAGE INDUSTRY SCHEME)
>
> xx xx xx
>
> 3.8.2.2. Following exports shall not be taken into account for duty credit entitlement under the scheme:
>
> (a) Export of imported goods covered under Para 2.35

2 for short, 'Act'
3 for short, 'Yojna'

of the Foreign Trade Policy or exports made through transshipment.

(b) Deemed Exports.

(c) Exports made by SEZs units and EOUs units.

xx xx xx

3.8.5. Government reserves the right in public interest, to specify from time to time the export products, which shall not be eligible for calculation of entitlement."

4. The Circular dated 21st January, 2009 was issued so as to clarify the scheme notified for the year 2006-07. The relevant part of the circular reads as under:

"

xx xx xx

2. However, in FTP RE-2006 (issued on 7.4.2006), exports made by EOUs were made ineligible for benefits under VKGUY scheme [vide introducing Para 3.8.2.2 (c)]. In further, in FTP RE-2006, two new schemes, namely, Focus Market Scheme (FMS) and Focus Product Scheme (FPS) were introduced. Similar provisions were made under para 3.92.2(b) for FMS, and under Para 3.10.2.2 (b) for FPS. Accordingly, for the period from 1.4.2006 to 31.3.2007, exports made by EOUs (or through DTA units) are not eligible for benefits under VKGUY, FMS and FPS."

5. The appellant is said to be engaged in manufacturing/trading and selling of Guar Gum, Guar Chri and Korma, Refined Splits and Guar Gum Powder in the domestic as well as export market. The appellant asserts that it is purchasing Guar Gum Powder from M/s. Neelkanth Polymers, which is 100% export-oriented unit. The reason to purchase from the said supplier are multiple and commercial in nature. In the writ petition, it is averred as under:

> "12. That the petitioner firm used to purchase the Guar Gum Powder from M/s. Neelkanth Polymers supporting manufacturer under cover of invoice which was further exported in capacity of merchant exporter under cover of shipping bill, commercial invoice, bill of lading through Customs Port situated either at Kandla/Mundra Port or CONCOR ICD, Jaipur etc."

6. The appellant-writ petitioner has sought quashing of the Circular, *inter alia*, on the ground that it is contrary to the Policy notified on 7th April, 2006. Learned counsel for the appellant contended that the Scheme has been notified under the Act, therefore, such Scheme has a statutory force which cannot be amended or modified by the Executive issuing the impugned Circular. The said Circular issued by the Government being contrary to the Scheme is not permissible. The learned counsel referred to Sections 3 and 5 of the Act, which read as under:-

> "**3. Powers to make provisions relating to imports and exports.**-(1) The Central Government may, by Order published in the Official Gazette, make provision for the development and regulation of foreign trade by facilitating imports and increasing exports.
>
> (2) The Central Government may also, by Order published in the Official Gazette, make provision for prohibiting, restricting or other wise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods or services or technology:
>
> Provided that the provisions of this sub-section shall be applicable, in case of import or export of services or technology, only when the service or technology provider is availing benefits under the foreign trade policy or is dealing with specified services or specified technologies.
>
> (3) All goods to which any Order under sub-section (2)

applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.

(4) Without prejudice to anything contained in any other law, rule, regulation, notification or order, no permit or licence shall be necessary for import or export of any goods, nor any goods shall be prohibited for import or export except, as may be required under this Act, or rules or orders made thereunder.

xx xx xx

5. Foreign Trade Policy—The Central Government may, from time to time, formulate and announce, by notification in the Official Gazette, the foreign trade policy and may also, in like manner amend that policy:

Provided that the Central Government may direct that, in respect of the Special Economic Zones, the foreign trade policy shall apply to the goods, services and technology with such exceptions, modifications and adaptations, as may be specified by it by notification in the Official Gazette."

7. Learned counsel for the appellant argued that the Scheme excludes the benefit of exports by units in Domestic Tariff Area[4] pertaining to Focus Market Scheme[5] notified along with Yojna. Therefore, there was specific exclusion of exports by DTA in FMS, whereas, there is no such exclusion in the Yojna. Therefore, the Revenue has drawn distinction between the two Schemes notified on the same day, which shows that the Revenue has treated two Schemes differently, therefore, exports other than by units in SEZ and EUO units are entitled to benefit of exports.

8. Learned counsel for the appellants also argued that in Para 3.8.2.2,

4 for short, 'DTA'
5 for short, 'FMS'

the benefit of exports is not available if the exports are made by EOU or units situated in SEZ Units. It is contended that only exports by these units are not entitled to incentive whereas the appellants are not part of either EOU or SEZ Unit as the expression used is exports made 'by' EOU and SEZ Unit and not 'through' them.

9. Mr. Arijit Prasad, learned senior counsel appearing for the respondents refers to a judgment of this Court reported as ***Director General of Foreign Trade & Anr.*** v. ***Kanak Exports & Anr.***[6] wherein in respect of FTP notified under Section 5 of the Imports and Exports (Control) Act, 1947, it was held that the Government has a right to amend, modify or even rescind a particular scheme. The Court held as under:

> "105. We may state, at the outset, that the incentive scheme in question, as promulgated by the Government, is in the nature of concession or incentive which is a privilege of the Central Government. It is for the Government to take the decision to grant such a privilege or not. It is also trite law that such exemptions, concessions or incentives can be withdrawn any time. All these are matters which are in the domain of policy decisions of the Government. When there is withdrawal of such incentive and it is also shown that the same was done in public interest, the Court would not tinker with these policy decisions. This is so laid down in a catena of judgments of this Court and is now treated as established and well-grounded principle of law. In such circumstances, even the doctrine of promissory estoppel cannot be ignored.
>
> xx xx xx
>
> 109. Therefore, it cannot be denied that the Government has a right to amend, modify or even rescind a particular scheme. It is well settled that in

6 (2016) 2 SCC 226

> complex economic matters every decision is necessarily empiric and it is based on experimentation or what one may call trial and error method and therefore, its validity cannot be tested on any rigid prior considerations or on the application of any straitjacket formula. In *Balco Employees' Union* v. *Union of India* [*Balco Employees' Union* v. *Union of India*, (2002) 2 SCC 333] , the Supreme Court held that laws, including executive action relating to economic activities should be viewed with greater latitude than laws touching civil rights such as freedom of speech, religion, etc. that the legislature should be allowed some play in the joints because it has to deal with complex problems which do not admit of solution through any doctrine or straitjacket formula and this is particularly true in case of legislation dealing with economic matters, where having regard to the nature of the problems greater latitude require to be allowed to the legislature. The question, however, is as to whether it can be done retrospectively, thereby taking away some right that had accrued in favour of another person?"

10. It is argued that 100% export-oriented units have been specifically excluded from benefit of the Scheme when it was notified on 7th April, 2006. The appellant is purchaser from the said 100% export-oriented unit and claiming benefit of the Scheme in respect of exports made by it. It is contended that since the 100% export-oriented units are not entitled to the benefit under the Scheme, therefore, the purchasers from such export-oriented units will also not be entitled to the benefit of the Scheme. It is contended that what cannot be done directly cannot be done indirectly. Since there was ambiguity in the Scheme, the same was clarified.

11. We have heard learned counsel for the parties and find no merit in the present appeal.

12. Section 5 of the Act empowers the Central Government to formulate and announce by notification in the official gazette the Foreign Trade Policy and may also, in the like manner, amend that policy from time to time. The Circular dated 21st January, 2009 does not modify or amend the Scheme notified for the year 2006-07. It only clarifies that 100% export-oriented units which are not entitled to seek exemption cannot avail benefit indirectly through the purchasers from them. It is modification or amendment of the Scheme which is required to be carried out by publication in the official gazette but not the clarifications to remove ambiguity in the existing Scheme. In terms of Clause 3.8.5 of the Scheme, the Government has reserved the right to specify from time to time the export products which shall not be eligible for calculation of entitlement. Since the Government has reserved right in public interest in terms of the Scheme notified under the Act, therefore, the Circular dated 21st January, 2009 cannot be said to be illegal in any manner.

13. We do not find any merit in the argument that exports made through an Export Oriented Unit would be entitled to incentives. The purpose of the Scheme is that 100% Export Oriented Units or units situated in Special Economic Zone are not to be granted incentives. The purpose and object of the Scheme notified cannot be defeated by granting incentives to units which exports though 100% Export Oriented Units.

14. We do not find any merit in the argument that the Scheme excludes the benefit of exports by units in DTA in a Scheme pertaining to FMS notified along with Yojna in April 2006 for the reason that FMS has an explicit clause whereas the DTA was not excluded from claiming exemption under clause 3.8.2.2 related to Yojna. Since the appellant is a purchaser from 100% export-oriented unit, therefore, the medium of the appellant cannot be used to avoid the intended purport of the policy for the year 2006-07. We find that the export-oriented units cannot use the appellant for export under the Scheme and to claim benefit of export when it is not permissible for them directly.

15. Consequently, we do not find any merit in the present appeal. The same is dismissed.

Civil Appeal No. 10637 of 2010

16. The appellant is 100% export-oriented unit. Such export-oriented unit stands specifically excluded from the Scheme in Para 3.8.2.2, therefore, we do not find any merit in the present appeal. The same is dismissed.

Civil Appeal Nos. 7233 of 2009 and 7257 of 2009

17. The appellant challenged the change in the Policy “Vishesh Krishi Upaj Yojna” wherein 100% export units were denied the benefit of exemption on the ground that the policy binds the respondents for a period of five years and that such policy is discriminatory as

direct tariff areas were excluded. The High Court held as under:

> "After hearing the counsel for the petitioners, we do not find any illegality in the impugned Notification dated 7.4.2006 (Annexure P-7) as by the said Notification the Government has taken a policy decision to withdraw the aforesaid benefit as the Export Oriented Units enjoy special status for tax exemptions and permission to source various requirements including the one in agricultural sector, duty free. They also enjoy income tax benefits and have been set up primarily for exports, therefore, they cannot be treated at par with DTA Units which do not enjoy all these benefits. Therefore, the benefit under the said Policy has not been extended to Special Economic Zone Units and Export Oriented Units."

18. We do not find any error in the findings recorded. Accordingly, the appeals are dismissed.

.....J.
(DEEPAK GUPTA)

.....J.
(HEMANT GUPTA)

NEW DELHI;
FEBRUARY 14, 2020.

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 10636 OF 2010

M/S. NOLA RAM DULICHAND DAL MILLS &
ANR. .....APPELLANT(S)

VERSUS

UNION OF INDIA & ORS. .....RESPONDENT(S)

W I T H

CIVIL APPEAL NO. 7257 OF 2009

CIVIL APPEAL NO. 10637 OF 2010

A N D

CIVIL APPEAL NO. 7233 OF 2009

J U D G M E N T

HEMANT GUPTA, J.

Civil Appeal No. 10636 of 2010

1. The challenge in the present appeal is to an order passed by the High Court of Rajasthan whereby the writ petition filed by the appellant was dismissed. In the writ petition, challenge was to a Circular dated 21st January, 2009 on the ground that it is contrary to the Foreign Trade Policy 2004-2009[7]. Such policy is issued under

7 for short, 'FTP'

Section 5 of the Foreign Trade (Development and Regulation) Act, 1992[8]. The FTP provides various schemes for providing incentives.

2. The present is a case pertaining to "Vishesh Krishi Upaj Yojna[9]" for giving incentives to promote export of fruits, vegetables, flowers, minor forest produce, dairy, poultry and their value added products. In the Scheme notified for the year 2005-06, the following exports were not to be taken into account for duty credit entitlement under the Scheme:

> "3.8 VISHESH KRISHI UPAJ YOJANA
> (SPECIAL AGRICULTURAL PRODUCE SCHEME)
>
> xx xx xx
>
> 3.8.2.2. Following exports shall not be taken into account for duty credit entitlement under the scheme:
>
> (a) Export of imported goods covered under Para 2.35 of the Foreign Trade Policy or exports made through transshipment.
>
> (b) Deemed exports (even when payments are received in Free Foreign Exchange and payment is made from EEFC account)."

3. However, in the Scheme notified for the year 2006-2007 on 7th April 2006, clauses 3.8 and 3.8.2.2 were changed. The clauses read as under:

> "3.8 VISHESH KRISHI AND GRAM UDYOG YOJANA
> (SPECIAL AGRICULTURE AND VILLAGE INDUSTRY SCHEME)
>
> xx xx xx
>
> 3.8.2.2. Following exports shall not be taken into account for duty credit entitlement under the scheme:

8 for short, 'Act'
9 for short, 'Yojna'

(a) Export of imported goods covered under Para 2.35 of the Foreign Trade Policy or exports made through transshipment.

(b) Deemed Exports.

(c) Exports made by SEZs units and EOUs units.

xx xx xx

3.8.5. Government reserves the right in public interest, to specify from time to time the export products, which shall not be eligible for calculation of entitlement."

4. The Circular dated 21st January, 2009 was issued so as to clarify the scheme notified for the year 2006-07. The relevant part of the circular reads as under:

"

xx xx xx

2. However, in FTP RE-2006 (issued on 7.4.2006), exports made by EOUs were made ineligible for benefits under VKGUY scheme [vide introducing Para 3.8.2.2 (c)]. In further, in FTP RE-2006, two new schemes, namely, Focus Market Scheme (FMS) and Focus Product Scheme (FPS) were introduced. Similar provisions were made under para 3.92.2(b) for FMS, and under Para 3.10.2.2 (b) for FPS. Accordingly, for the period from 1.4.2006 to 31.3.2007, exports made by EOUs (or through DTA units) are not eligible for benefits under VKGUY, FMS and FPS."

5. The appellant is said to be engaged in manufacturing/trading and selling of Guar Gum, Guar Chri and Korma, Refined Splits and Guar Gum Powder in the domestic as well as export market. The appellant asserts that it is purchasing Guar Gum Powder from M/s. Neelkanth Polymers, which is 100% export-oriented unit. The reason to purchase from the said

supplier are multiple and commercial in nature. In the writ petition, it is averred as under:

> "12. That the petitioner firm used to purchase the Guar Gum Powder from M/s. Neelkanth Polymers supporting manufacturer under cover of invoice which was further exported in capacity of merchant exporter under cover of shipping bill, commercial invoice, bill of lading through Customs Port situated either at Kandla/Mundra Port or CONCOR ICD, Jaipur etc."

6. The appellant-writ petitioner has sought quashing of the Circular, *inter alia*, on the ground that it is contrary to the Policy notified on 7th April, 2006. Learned counsel for the appellant contended that the Scheme has been notified under the Act, therefore, such Scheme has a statutory force which cannot be amended or modified by the Executive issuing the impugned Circular. The said Circular issued by the Government being contrary to the Scheme is not permissible. The learned counsel referred to Sections 3 and 5 of the Act, which read as under:-

> "**3. Powers to make provisions relating to imports and exports.**-(1) The Central Government may, by Order published in the Official Gazette, make provision for the development and regulation of foreign trade by facilitating imports and increasing exports.
>
> (2) The Central Government may also, by Order published in the Official Gazette, make provision for prohibiting, restricting or other wise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods or services or technology:
>
> Provided that the provisions of this sub-section shall be applicable, in case of import or export of services or

technology, only when the service or technology provider is availing benefits under the foreign trade policy or is dealing with specified services or specified technologies.

(3) All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.

(4) Without prejudice to anything contained in any other law, rule, regulation, notification or order, no permit or licence shall be necessary for import or export of any goods, nor any goods shall be prohibited for import or export except, as may be required under this Act, or rules or orders made thereunder.

xx xx xx

5. Foreign Trade Policy—The Central Government may, from time to time, formulate and announce, by notification in the Official Gazette, the foreign trade policy and may also, in like manner amend that policy:

Provided that the Central Government may direct that, in respect of the Special Economic Zones, the foreign trade policy shall apply to the goods, services and technology with such exceptions, modifications and adaptations, as may be specified by it by notification in the Official Gazette."

7. Learned counsel for the appellant argued that the Scheme excludes the benefit of exports by units in Domestic Tariff Area[10] pertaining to Focus Market Scheme[11] notified along with Yojna. Therefore, there was specific exclusion of exports by DTA in FMS, whereas, there is no such exclusion in the Yojna. Therefore, the Revenue has drawn distinction between the two Schemes notified on the same day, which shows that the

10 for short, 'DTA'
11 for short, 'FMS'

Revenue has treated two Schemes differently, therefore, exports other than by units in SEZ and EUO units are entitled to benefit of exports.

8. Learned counsel for the appellants also argued that in Para 3.8.2.2, the benefit of exports is not available if the exports are made by EOU or units situated in SEZ Units. It is contended that only exports by these units are not entitled to incentive whereas the appellants are not part of either EOU or SEZ Unit as the expression used is exports made 'by' EOU and SEZ Unit and not 'through' them.

9. Mr. Arijit Prasad, learned senior counsel appearing for the respondents refers to a judgment of this Court reported as ***Director General of Foreign Trade & Anr.*** v. ***Kanak Exports & Anr.***[12] wherein in respect of FTP notified under Section 5 of the Imports and Exports (Control) Act, 1947, it was held that the Government has a right to amend, modify or even rescind a particular scheme. The Court held as under:

> "105. We may state, at the outset, that the incentive scheme in question, as promulgated by the Government, is in the nature of concession or incentive which is a privilege of the Central Government. It is for the Government to take the decision to grant such a privilege or not. It is also trite law that such exemptions, concessions or incentives can be withdrawn any time. All these are matters which are in the domain of policy decisions of the Government. When there is withdrawal

12 (2016) 2 SCC 226

> of such incentive and it is also shown that the same was done in public interest, the Court would not tinker with these policy decisions. This is so laid down in a catena of judgments of this Court and is now treated as established and well-grounded principle of law. In such circumstances, even the doctrine of promissory estoppel cannot be ignored.
>
> xx xx xx
>
> 109. Therefore, it cannot be denied that the Government has a right to amend, modify or even rescind a particular scheme. It is well settled that in complex economic matters every decision is necessarily empiric and it is based on experimentation or what one may call trial and error method and therefore, its validity cannot be tested on any rigid prior considerations or on the application of any straitjacket formula. In *Balco Employees' Union* v. *Union of India* [*Balco Employees' Union* v. *Union of India*, (2002) 2 SCC 333] , the Supreme Court held that laws, including executive action relating to economic activities should be viewed with greater latitude than laws touching civil rights such as freedom of speech, religion, etc. that the legislature should be allowed some play in the joints because it has to deal with complex problems which do not admit of solution through any doctrine or straitjacket formula and this is particularly true in case of legislation dealing with economic matters, where having regard to the nature of the problems greater latitude require to be allowed to the legislature. The question, however, is as to whether it can be done retrospectively, thereby taking away some right that had accrued in favour of another person?"

10. It is argued that 100% export-oriented units have been specifically excluded from benefit of the Scheme when it was notified on 7th April, 2006. The appellant is purchaser from the said 100% export-oriented unit and claiming benefit of the Scheme in respect of exports made by it. It is contended that since the 100% export-oriented units are not entitled to the

benefit under the Scheme, therefore, the purchasers from such export-oriented units will also not be entitled to the benefit of the Scheme. It is contended that what cannot be done directly cannot be done indirectly. Since there was ambiguity in the Scheme, the same was clarified.

11. We have heard learned counsel for the parties and find no merit in the present appeal.

12. Section 5 of the Act empowers the Central Government to formulate and announce by notification in the official gazette the Foreign Trade Policy and may also, in the like manner, amend that policy from time to time. The Circular dated 21st January, 2009 does not modify or amend the Scheme notified for the year 2006- 07. It only clarifies that 100% export-oriented units which are not entitled to seek exemption cannot avail benefit indirectly through the purchasers from them. It is modification or amendment of the Scheme which is required to be carried out by publication in the official gazette but not the clarifications to remove ambiguity in the existing Scheme. In terms of Clause 3.8.5 of the Scheme, the Government has reserved the right to specify from time to time the export products which shall not be eligible for calculation of entitlement. Since the Government has reserved right in public interest in terms of the Scheme notified under the Act, therefore, the Circular dated 21st January, 2009 cannot be said to

be illegal in any manner.

13. We do not find any merit in the argument that exports made through an Export Oriented Unit would be entitled to incentives. The purpose of the Scheme is that 100% Export Oriented Units or units situated in Special Economic Zone are not to be granted incentives. The purpose and object of the Scheme notified cannot be defeated by granting incentives to units which exports though 100% Export Oriented Units.

14. We do not find any merit in the argument that exports made through an Export Oriented Unit would be entitled to incentives. The purpose of the Scheme is that 100% Export Oriented Units or units situated in Special Economic Zone are not to be granted incentives. The purpose and object of the Scheme notified cannot be defeated by granting incentives to units which exports through 100% Export Oriented Units.

15. We do not find any merit in the argument that the Scheme excludes the benefit of exports by units in DTA in a Scheme pertaining to FMS notified along with Yojna in April 2006 for the reason that FMS has an explicit clause whereas the DTA was not excluded from claiming exemption under clause 3.8.2.2 related to Yojna. Since the appellant is a purchaser from 100% export-oriented unit, therefore, the medium of the appellant cannot be used to avoid the intended purport of the policy for the year 2006-07. We find that the export-oriented units cannot use

the appellant for export under the Scheme and to claim benefit of export when it is not permissible for them directly.

16. Consequently, we do not find any merit in the present appeal. The same is dismissed.

Civil Appeal No. 10637 of 2010

17. The appellant is 100% export-oriented unit. Such export-oriented unit stands specifically excluded from the Scheme in Para 3.8.2.2, therefore, we do not find any merit in the present appeal. The same is dismissed.

Civil Appeal Nos. 7233 of 2009 and 7257 of 2009

18. The appellant challenged the change in the Policy "Vishesh Krishi Upaj Yojna" wherein 100% export units were denied the benefit of exemption on the ground that the policy binds the respondents for a period of five years and that such policy is discriminatory as direct tariff areas were excluded. The High Court held as under:

> "After hearing the counsel for the petitioners, we do not find any illegality in the impugned Notification dated 7.4.2006 (Annexure P-7) as by the said Notification the Government has taken a policy decision to withdraw the aforesaid benefit as the Export Oriented Units enjoy special status for tax exemptions and permission to source various requirements including the one in agricultural sector, duty free. They also enjoy income tax benefits and have been set up primarily for exports, therefore, they cannot be treated at par with DTA Units which do not enjoy all these benefits. Therefore, the benefit under the said Policy has not been extended to Special Economic Zone Units and Export Oriented

Units.”

19. We do not find any error in the findings recorded. Accordingly, the appeals are dismissed.

.....J.
(DEEPAK GUPTA)

.....J.
(HEMANT GUPTA)

NEW DELHI;
FEBRUARY 14, 2020.