

6. On an anxious consideration of the matter we are of the view that the language in the Notification is fairly clear. The Central Government has exempted "such" vegetable product "as is made from indigenous rice bran oil" from the duty of excise leviable thereon to the extent of Rs. 10 per quintal subject to the conditions following. The crucial words in the notification - "such vegetable product" "as is made from indigenous rice bran oil" from the "duty of excise is leviable thereon" are important. The words "as is made from the indigenous rice bran oil" should be understood in a meaningful manner. The related or synonymous words for "as is" are many. Keeping the related words of "as is" in mind, it appears to us that the natural and proper meaning to be given to the enacting or main clause of the notification is, that the Central Government exempts such vegetable product, to the extent "it is made" or "as shown to be made" or "as represented to be made" or "as seen made", from indigenous rice bran oil. The title itself is "exemption to vegetable product out of indigenous rice bran oil". It can only mean that the quantity of rice bran oil contained in the vegetable product is exempt. The Appellate tribunal has considered the matter at great length in paragraph 9 and 10 of its order placing emphasis on Notification as a whole and the two conditions following the enacting or main clause. We are of the view that the conclusion arrived at by the Tribunal is valid and tenable. The conclusion follows either by construing the plain language of the main clause alone or by construing the entire notification along with the conditions. No interference is called for with the decision rendered by the Appellate Tribunal.

7. Appellant's Counsel that if due stress is given to the conditions, what the notification means is, that exemption is available to the entire quantity of admixture of the vegetable product, produced out of rice bran oil, the only condition being that the content of rice bran oil should be more than 1% of the total in any consignment, and such interpretation of the notification is equally possible. We are of the view that such a construction is not possible. Even assuming that it is so, in the case of an ambiguity or doubt regarding an exemption provision in a fiscal statute, the ambiguity or doubt will be resolved in favour of the revenue and not in favour of the assessee. The matter is concluded by a recent decision of a three-member Bench of this Court in *M/s. Navopan India Ltd., Hyderabad v. Collector of Central Excise and Customs, Hyderabad*, (1994) 6 JT SC 80. On this ground as well, the appellant is not entitled to any relief. The appeals are dismissed with costs.

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CENTRAL COALFIELDS LTD.

v.

STATE OF MADHYA PRADESH AND ORS.

DECEMBER 13, 1994

B

[K. RAMASWAMY AND N. VENKATACHALA, JJ.]

M.P. Nagar Tatha Gram Nivesh Adhiniyam, 1973: Scope of.

C

Held operation of Adhiniyam in relation to mining is void—Adhiniyam regulates building planned development and developments incidental and ancillary thereto—The operation of Adhiniyam does not trench upon the provisions of Central Act viz. Coal Act, Coal Bearing Areas (Acquisition and Development) Act and Mines and Minerals (Regulation and Development) Act, 1957.

D

Constitution of India 1950—Legislative competence—Doctrine of occupied field—Applicability, of.

E

The second respondent—Chairman of the Special Area Development Authority (SADA), Singrauli passed orders under section 26 of the Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973 directing the appellant to pull down the construction of the office buildings staff quarters etc. made by the appellant contrary to the provisions of the Adhiniyam. The appellant filed a writ petition in the Madhya Pradesh High Court challenging the said directions which considered the question as to whether the provisions of the Adhiniyam overlapped the field occupied by the provisions of the Coal Act, the Coal Bearing Areas (Acquisition and Development) Act and Mines and Minerals (Regulations and Development) Act, 1957 and dismissed the petition holding that these Acts have not occupied the field covered by the Adhiniyam and therefore, the Act was *intra vires* the power of the legislature.

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Appellant preferred an appeal in this Court contending that when the mining operations are to be carried out under the aforesaid provisions, it would include the building operations under the Mineral Concession Rules, 1960 made under the Act. Therefore, the operation of the Adhiniyam stands excluded. On behalf of the second respondent-SADA it was contended that Adhiniyam regulates the development area under the Adhiniyam including the construction of buildings

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within the notified development plan in the zones; the appellant had constructed the building without obtaining prior permission from the SADA and that, therefore, the construction was in contravention of section 26 of the Adhiniyam. Therefore, the action was correctly taken and the Central Acts have no application as regards the building operations are concerned. A

Dismissing the appeal, this Court B

HELD: 1. There is no overlapping of the operation of the Adhiniyam *vis-a-vis* the Central Acts. [559 G]

2. Under the Coal Act and the Coal Bearing Area (Acquisition and Development) Act, the mining area stands vested in the appellant and it is entitled to carry on mining operations under the Act and the Rules. The operation of Adhiniyam in relation to mining operation is void. Construction of office building, staff quarters, providing facilities for successful and effective mining operations, the welfare measure and providing right to residence and civic amenities to the staff and workmen are incidental or ancillary to the main purpose i.e. mining operation under the Act and the Rules. The Adhiniyam regulates building planned development and the developments incidental and ancillary thereto. Under these circumstances the High Court has rightly held that the operation of Adhiniyam to the above extent does not trench upon the field of operation under provisions of the Central Acts. Both could harmoniously co-exist and operate in the respective areas without colliding with each other. [559 D to F] C D E

3. Excluding mining development, when the zonal plan was prepared and it was published for building operations, it would be a notice to the appellant and if such a zonal plan comes in conflict with the smooth and effective building operations in the mining area and would impede its operations which are regulated as ancillary or incidental and concomitant necessity under the provisions of the Act, the Rules and other Central Acts, then it would always be open to the appellant either to bring it to the notice of the Director who is competent to make the plans and have it corrected or in case such an objection was taken but was not acceded to, it would be open to the appellant to have it challenged in an appropriate proceeding and have it declared that it runs contrary to and impinge upon the mining operations under the relevant provisions of the Act or Rules. Since on the facts of this case that question was not raised or controverted, Court need not express F G H

- A. any opinion in this behalf. If it were such a case that building operations of the appellant are within the mining area and the plan of the Adhiniyam is sought to be implemented in that area, it may be open to the appellant to raise such objections and the authorities would consider and dispose it of according to rules or approach the government to remove the difficulties and the State Govt. would do its best. Or it may be open to the appellant to have it challenged in an appropriate forum. [559 H, 560 A to D].
- B.

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 4124 of 1986.

- C From the Judgment and Order dated 3.5.85 of the Madhya Pradesh High Court in Misc. P.No. 1260 of 1982:

Alfah Ahmed, Additional Solicitor-General, R.N. Sachthey, C.D. Singh, Anip Sachthey and H. Munshi for the Appellant.

- D Dr. N.M. Ghatate, Dr. Shankar Ghosh, S.V. Deshpande, P.P. Singh, S.K. Agnihotri and S.K. Mehta for the Respondents.

The following order of the Court was delivered:.

- E Amendment of the cause title is allowed, Intervention application is dismissed.

- F This appeal by special leave arises from the order of the Division Bench of the Madhya Pradesh High Court dated May 3, 1985, made in Misc. Pet. No. 1260/82. The appellant challenged in the above writ petition the directions dated 4.5.81, order dated 30.9.81 and a further order dated 9.6.82 passed by the second respondent-Chairman of Special Areas Development Authority (for short, 'SADA'), Singrauli, in the District of Sidhi of M.P. directing the appellant under section 26 of the M.P. Nagar Tatha Gram Nivesh Adhiniyam, 1973, (for short, 'Adhiniyam') to pull down the constructions of the office buildings staff-quarters etc. made by the appellant contrary to the provisions of the Adhiniyam. In the High Court, the controversy centered round the question as to whether the provisions of the Adhiniyam overlaps the field occupied by the provisions of the Coal Act, the Coal Bearing Areas (Acquisition and Development) Act and Mines and Minerals (Regulations and Development) Act, 1957 (for short, 'the Act'). The Division Bench held that these Acts have not occupied the field covered by the Adhiniyam and that, therefore, the Act is
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intra vires the powers of the legislature. Accordingly, it dismissed the writ A
petition. Thus, this appeal by special leave.

It is contended by Shri Altaf Ahmed, learned Addl. Solicitor General, that when the mining operations are to be carried out under the aforesaid provisions, it would include the building operations under the Mineral Concession Rules, 1960, (for short, 'the Rules') made under the Act. B
Therefore, the operation of the Adhiniyam stands excluded. Dr. Ghatate, learned senior counsel for the second respondent, resisted the contention contending that Adhiniyam regulates the development area under the Adhiniyam including the construction of buildings within the notified development plan in the zones; the appellant had constructed the buildings in Morwa and Jayanthi Villages without obtaining prior permission from the SADA and that therefore, the construction was in contravention of s. 26 of the Adhiniyam. He, therefore, contends that the action was correctly taken and the Central Acts have no application as regards the building operations are concerned. The question, therefore, is as to what is the exact scope of the operation of the Adhiniyam. C

Section 2(c) of the Adhiniyam defines "building", s.2(d) defines "buildings operations", s.2(f) defines "development", s.2(g) defines "development plan", s.2(i) defines "existing land use map" and s.2(j) defines "land". A conspectus of these definitions would indicate that the Adhiniyam intends to apply to carrying out of the development of the building, engineering, mining or other operation in on, over or under any land or the making of any material change in any building or land or in the use of either and includes sub-division of any land within the zoning plan and the land use map made under the provisions of the Act. D

Section 38 in chapter VII empowers the state Government by a notification to establish Town and Country Development Authority which authority has been given power to develop the land. In Chapter III, it is empowered to make survey by the Director, preparation of regional plans, finalization thereof under ss.6 to 9. Section 10, thereafter, envisages that : E

"Notwithstanding anything contained in any other law for the time being in force, on or after the date of publication of the draft regional plan, no person, authority, department of government or any other person shall change the use of the land for any purpose other than agriculture, or carry out any development in respect of any land contrary to the provisions of the draft plan, without the prior approval of the Director or F

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- A an officer not below the rank of Deputy Director authorised by the Director in this behalf.”

Chapter IV deals with preparation of the planning area and development plans. Sections 13 to 15 envisage making or preparation of developmental plans and existing land use maps. By publication under s.15(1), s.16 comes into operation which provides that:

“(1) On the publication of the existing land use map under s.15 —

(a) no person shall institute or change the use of any land or carry out any development of land for any purpose other than that indicated in the existing land use map without the permission in writing of the Director.

[Proviso and Clause (b) are not material for the purpose of this case, hence omitted.]

- D Under s.24, the State Government have kept the power with them to control and use of the land for overall development as per the plans of the Adhiniyam. Section 24(2) gives power to the State Government to remove difficulties in the implementation of the provisions of the Act. Section 25 postulates that “after coming into force of the development plan, the use and development of land shall conform to the provision of the development plan.” In other words, after it has come into force the development of the land shall be only in conformity with the developmental plan. In other words, it is confined to building operations. Any constructions had been made prior to the coming into force of development plan, it does not come within the prohibition contained under s.26. But thereafter, s.26 expressly prohibits constructions except under planned development of land with prior permission. For permission, when needed, an application in that behalf shall be made by any person under s.29 and by the State Government of the Central Government of any local authority or special authority under s.27. The Director has been given power to grant permission either unconditionally or conditionally or refuse the same under section 30. A right of appeal by the aggrieved person is given under section 31 to the appellate authority and a further revision to the State Government under section 32.
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- H Thus, a reading of these provisions would clearly indicate that the Adhiniyam intends to operate within the zonal plans or the developed area plans and the land use map published under the Adhiniyam and

construction of the building or development of the land shall be made in conformity with the provisions of the Adhiniyam, after the publication of the plans as required ultimately under s.25 of the Act. Any contravention thereof would be a contravention under s.26 of the Adhiniyam and the authority has the power to take appropriate action as required thereunder. A

The question, therefore, emerges whether the construction made by the appellant is in conformity with the land use map prepared by the SADA and the zonal plan. In the reply given to the shown cause notice issued by the SADA, the appellant had admitted that SADA published the plan but initially it was contended that the plan was not extended to the two villages in which constructions had been carried out for which notice was given. It was also stated that the Collector had acquired the land of 130 acres and odd in villages Punjrah for construction of office buildings staff quarters, workers' buildings etc, for which there was no notice issued by SADA. At the time of hearing, the contention that the map was not applicable to the two areas was given up. In the writ petition, no specific plea was taken that these two villages are within the mining areas and that the zonal declaration overlaps the mining area. It is seen that under the Coal Act and the Coal Bearing Area (Acquisition and Development) Act, the mining area stands vested in the appellant and it is entitled to carry on mining operations under the Act and the Rules. The operation of Adhiniyam in relation to mining operation is void. Construction of office building, staff quarters, providing facilities for successful and effective mining operations, the welfare measures and providing right to residence and civic amenities to the staff and workmen are incidental or ancillary to the main purpose i.e. mining operation under the Act and the Rules. The Adhiniyam regulates building planned development and the developments incidental and ancillary thereto. Under these circumstances, the High Court has rightly held that the operation of Adhiniyam to the above extent does not trench upon the filed of operation under provisions of the Central Acts. Both could harmoniously co-exist and operate in the respective areas without colliding with each other. The provisions being construed in that backdrop and operational efficacy, we are of the considered view that there is no overlapping of the operation of the Adhiniyam *vis-a-vis* the Central Acts. B C D E F

The question emerges that when mining operations are carried on including actions relating to building operations incidental or integral to the mining operations, whether the Adhiniyam gets attracted? As stated earlier, excluding mining development, when the zonal plan was prepared and it was published for building operations, it would be a notice to the appellant and if such a zonal plan comes in conflict with the smooth and effective G H

- A building operations in the mining area and would impede its operations which are regulated as ancillary or incidental and concomitant necessity under the provisions of the Act, the Rules and other Central Acts referred to hereinbefore, then it would always be open to the appellant either to bring it to the notice of the Director who is competent to make the plans and have it corrected or in case such an objection was taken but was not acceded to, it would be open to the appellant to have it challenged in an appropriate proceeding and have it declared that it runs contrary to and impinge upon the mining operations under the relevant provisions of the Act or Rules. Since on the facts of this case that question was not raised or controverted, we need not express any opinion in this behalf. If it were such a case that building operations of the appellant are within the mining area and the plan of the Adhiniyam is sought to be implemented in that area, it may be open to the appellant to raise such objections and the authorities would consider and dispose it of according to rules or approach the government to remove the difficulties and the State Govt. would do its best. Or it may be open to the appellant to have it challenged in an appropriate forum.
- D The appeal is dismissed accordingly but without costs.

T.N.A.

Appeal dismissed.