IT : New Okhla Industrial Development Authority (NOIDA) is not a Municipality' as contemplated in clause (e) of Article 243Pof Constitution; nor is it covered by definition of local authority as contained in Explanation to Section 10(20); it's income is not eligible for exemption under section 10(20)

• The appellant-New Okhla Industrial Development Authority (NOIDA) was constituted under Section 3 of the U.P. Industrial Area Development Act, 1976 by notification dated 17.04.1976. The 1976Act, was enacted by State Legislature to provide for the constitution of an Authority for the development of certain areas in the State of UP into industrial and urban township. Under the 1976Act, various functions had been entrusted to the Authorities.

• *Held*, that NOIDA is not covered by the word/expression of 'Municipality' in clause (e) of Article 243P. It is neither included in sub-clause (ii) of Explanation, nor is it covered by section 10(20) except clause (ii).

• Thus, NOIDA is not a local authority; hence, is not exempted from payment of income tax under Section 10(20) and Section 10(20A) of Income Tax Act, 1961.

[2018] 95 taxmann.com 58 (SC)

SUPREME COURT OF INDIA

New Okhla Industrial Development Authority

v.

Chief Commissioner of Income-tax

A.K SIKRI AND ASHOK BHUSHAN, JJ.
CIVIL APPEAL NOS. 792,793 OF 2014
JULY 2, 2018

JUDGMENT

Ashok Bhushan, J. - The appellant by these appeals has challenged the Division Bench judgment of Allahabad High Court dated 28.02.2011 dismissing the writ petition filled by the appellant challenging the notices issued by the Income Tax Authority under Section 142 of the Income Tax Act, 1961 as well as the judgment dated 04.11.2011 rejecting the review application.

2. The facts giving rise to these appeals are:

The appellant-New Okhla Industrial Development Authority (hereinafter referred to as the "Authority") has been constituted under Section 3 of the U.P. Industrial Area Development Act, 1976 (hereinafter referred to as the 'Act, 1976') by notification dated 17.04.1976. The Act, 1976 was enacted by State Legislature to provide for the constitution of an Authority for the development of certain areas in the State into industrial and urban township and for matters connected therewith. Under the Act, 1976 various functions have been entrusted to the Authorities. Notices under Section 142 of the Income Tax Act dated 28.07.1998 and 08.08.1998 were issued to the appellant. The appellant challenging the said notices filed writ petition contending that appellant is a local authority, hence, is exempted from payment of income tax under Section 10(20) and Section 10(20A) of Income Tax Act, 1961 (hereinafter referred to as "I.T.Act, 1961). The writ petition was allowed by the Division Bench of the Allahabad

High Court on 14.02.2000 holding that the appellant is a local body. It was held that it is covered by the exemption under Section 10(20A) of I.T.Act, 1961. The Division Bench, however, did not go into the question whether it is also exempt under Section 10(20).

3. By the Constitution (74th Amendment) Act, 1992, the Parliament had inserted Part IXA of the Constitution providing for the constitution of Municipalities. A notification dated 24.12.2001 was issued by the Governor in exercise of the power under the proviso to clause (1) of Article 243Q of the Constitution of India specifying the appellant to be an "industrial township" with effect from the date of the notification in the Official Gazette. A notice dated 29.08.2005 was issued by the Assistant Commissioner of Income Tax to the appellant for furnishing Income Tax Return for the assessment year 2003-2004 and 2004-2005. Notice mentioned that after omission of Section 10(20A) w.e.f. 01.04.2003 the Authority has become taxable. Notice under Section 142(1) was also enclosed for the above purpose.

4. Notices were also issued to different Banks requiring different information. The appellant vide its letter dated 20.09.2005 replied the notice dated 29.08.2005 stating that it is a local authority and exempt from Income Tax hence notice under Section 142 be withdrawn. The Income Tax authorities also issued notice to the different Banks to deduct TDS as required under Section 194A of the Income Tax Act and remit the same to the Central Government Account.

5. The appellant filed a writ petition praying for quashing the notice under Section 142 of the Income Tax Act dated 29.08.2005. The appellant also challenged notice dated 31.08.2005 issued under Section 131 to the Bankers of the appellant. Notice dated 21.09.2005 under Section 194A was also sought to be quashed. The writ petition was contested by the Income Tax Department. The High Court in the writ petition decided the only question "whether New Okhla Industrial Development Authority (NOIDA) is a local authority after 01.04.2003 within the meaning of Section 10(20) of the Income Tax Act, 1961". The Division Bench of the High Court relying on two judgments of this Court in ***Agricultural Produce Market Committee, Narela, Delhi*** **v.** ***Commissioner of Income Tax and another,*** **(2008) 9 SCC 434 and** ***Adityapur Industrial Area Development Authority*** **v.** ***Union of India and others,*** **(2006) 5 SCC 100,** held that after 01.03.2003 the NOIDA is not a local authority within the meaning of Section 10(20) of the I.T.Act, 1961. The writ petition was consequently dismissed. Although, the appellant had prayed for quashing notices issued to its Bankers and notice under Section 194A but the High Court did not advert to the said issue. We do not find any necessity to advert to the aforesaid issues, since, different concerned Banks have already filed civil appeals challenging the judgment of the High Court rendered in their writ petition which has been separately challenged by a group of civil appeals being Civil Appeal arising out of SLP(C) No.3168 of 2017-Commissioner of Income Tax (TDS), Kanpur vs. Canara Bank where we have considered and decided those issues by our judgment of this date. After dismissal of the writ petition dated 28.02.2011 the appellant filed a review application which too was dismissed on 04.11.2011. Aggrieved by those two judgments Civil Appeal Nos.792-793 of 2014 have been filed by the appellant.

6. We have heard Shri Balbir Singh, learned senior counsel appearing for the appellant and Shri K Radhakrishnan, learned senior counsel appearing for the Revenue. We have also heard various learned counsel appearing for different Banks.

7. Learned counsel for appellant submits that both the judgments of this Court relied on by the High Court for dismissing the writ petition were not applicable and clearly distinguishable. He submits that judgment of this Court in ***Agricultural Produce Market Committee, Narela*** **(*supra*)** was a case where this Court was concerned with status of Agricultural Produce Market Committee which was not akin to the appellant in view of the statutory provisions contained in Act, 1976, hence, reliance on such case was misplaced.

8. With regard to judgment of this Court in ***Adityapur Industrial Area Development Authority*** **(*supra*)**,

it is submitted that this Court essentially has considered in the above case regarding the exemption under Article 289 of the Constitution of India whereas appellant does not rely on Article 289. He further submits that Governor of U.P. has issued notification dated 24.12.2001 under the proviso to Article 243Q(1)(a) which provision was not considered in the above mentioned two cases, hence, the present case is clearly distinguishable from the aforesaid two judgments. It is submitted that Municipal Services are being provided by the authority, hence, it is a local authority entitled to the benefit of Section 10(20) of the I.T. Act, 1961. The constitutional scheme envisages performance of municipal functions even by a body which may not be elected and yet performs municipal functions. Article 243Q envisaged such authority and also having been recognised such an authority by issuing the notification, it is a local authority and is entitled for the benefit of exemption. There does not exist any elected municipality for the industrial development area and it is the appellant which is entrusted to discharge municipal functions as enumerated in the 12th Schedule under Article 243P of the Constitution. The appellant was not only a creation of a statute but has been statutorily charged to perform functions, including municipal functions. The appellant is a local body having local fund and its accounts are audited by the Examiner of the Local Fund accounts. The appellant also has authorisation by law to levy tax in contradistinction to a mere development authority.

9. Learned counsel appearing for the Revenue refuting the submissions of appellant contends that in view of the Explanation added to Section 10(20) of the I.T.Act, 1961 by Finance Act, 2002, the appellant is no longer covered by the definition of 'local authority'. The definition of 'local authority' as contained in Explanation is not an inclusive definition but being an exhaustive definition unless the appellant is covered by any of the clauses mentioned in the Explanation it cannot claim an exemption. It is further submitted that omission of Section 10(20A) by the same Finance Act clearly indicates that those authorities which were treated as local authority prior to Finance Act is no longer entitled to avail the benefit of exemption. It is evident from the Constitution 74th Amendment Act, 1992 that the Parliament has introduced certain minimum safeguards so that municipalities could act as vibrant democratic units of self-government so as to not leave them to the vagaries of laws being enacted by different State Legislatures. The Parliament was focussed on making provisions of local self-government alone and not on the aspect of municipal services and Legislation on municipalities operates in a different legislative field as compared to Legislation on Industrial Development Authorities. After the Constitution Amendment both U.P. Municipality Act, 1916 and U.P. Municipal Corporation Act, 1959 have been amended in the light of constitutional provisions as contained in Part IXA of the Constitution whereas no amendments have been made in Act, 1976 which clearly indicates that the authority was never treated as municipality within the meaning of Article 243Q. There are large number of factors which must be possessed by the municipality under the constitutional scheme which is absent in the authority.

10. Hence, Constitution never recognised industrial township as referred to in proviso to Article 243Q as equivalent to municipality. Further, the notification under the proviso to Article 243Q dated 24.12.2001 itself indicates that no municipality has been constituted in the area in which appellant operated. The Authority clearly is not a local authority. The Finance Act, 2002 brought substantial changes in the definition of local authority by defining local authority exclusively and by omitting Section 10(20A), the benefits earlier enjoyed by various authorities which were treated local authorities were taken away. The provisions of Section 10 sub-section (20) are clear and taking plain and literal meaning of the provision, the appellant is not entitled for exemption; the High court has rightly dismissed the writ petition filed by the appellant.

11. Learned counsel appearing for the Banks have also adopted the submissions made by the learned counsel for the Revenue in support of their contention that the appellant is a local authority within the meaning of Section 10 sub-section (20) of the I.T. Tax, 1961.

12. Learned counsel for both the parties have relied on various judgments of this Court which shall be referred to while considering the submissions made by the parties.

13. We have considered the submissions made by the learned counsel for the parties and perused the records.

14. The only issue which needs to be considered in these appeals is as to whether the appellant is a local authority within the meaning of Section 10(20) as amended by Finance Act, 2002 w.e.f. 01.04.2003. Before we proceed further, it is necessary to notice the provisions of Section 10(20) which existed prior to its amendment by Finance Act, 2002 and after amendment w.e.f. 01.04.2003:

Section 10(20) prior to amendment by the Finance Act, 2002	Section 10(20) after amendment by the Finance Act, 2002
the income of a local authority which is chargeable under the head "Income from house property", "Capital gains" or "Income from other sources" or from a trade or business carried on by it which accrues or arises from the supply of a commodity or service [(not being water or electricity) within its own jurisdictional area or from the supply of water or electricity within or outside its own jurisdictional area;	the income of a local authority which is chargeable under the head "Income from house property", "Capital gains" or "Income from other sources" or from a trade or business carried on by it which accrues or arises from the supply of a commodity or service [(not being water or electricity) within its own jurisdictional area or from the supply of water or electricity within or outside its own jurisdictional area; Explanation.—For the purposes of this clause, the expression "local authority" means— (*i*) Panchayat as referred to in clause (d) of article 243 of the Constitution87; or (*ii*) Municipality as referred to in clause (e) of article 243P of the Constitution88; or (*iii*) Municipal Committee and District Board, legally entitled to, or entrusted by the Government with, the control or management of a Municipal or local fund; or (*iv*) Cantonment Board as defined in section 389 of the Cantonments Act, 1924 (2 of 1924);
"10(20A) any income of an authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both;"	Section 10(20A):Omitted by the Finance Act, 2002 w.e.f. 1.4.2002

15. The constitutional provisions contained in Part IXA of the Constitution of India as inserted by Constitution 74th Amendment Act, 1992 also need to be noted. Article 243P contains the definitions. Article 243P(e) defines Municipality which is to the following effect:

"243P(e)" *Municipality" means an institution of self-government constituted under Article 243Q;"*

16. Article 243Q provides for the Constitution of Municipalities which is to the following effect:

"243Q. Constitution of Municipalities.-

(1) There shall be constituted in every State,-

(*a*) *a Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area;*

(*b*) *a Municipal Council for a smaller urban area; and*

(*c*) *a Municipal Corporation for a larger urban area,*

in accordance with the provisions of this Part:

Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of tile area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township.

(2) In this article, a transitional area, a smaller urban area or a larger urban area means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Part."

17. Article 243R pertains to Composition of Municipalities which is to the following effect:

"243R. Composition of Municipalities.-*(1) Save as provided in clause (2), all the seats in a Municipality shall be filled by persons chosen by direct election from the territorial constituencies in the Municipal area and for this purpose each Municipal area shall be divided into territorial constituencies to be known as wards.*

(2) The Legislature of a State may, by law, provide-

(*a*) *for the representation in a Municipality of-*

(*i*) *persons having special knowledge or experience in Municipal administration;*

(*ii*) *the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area;*

(*iii*) *the members of the Council of States and the members of the Legislative Council of the State registered electors within tile Municipal area;*

(*iv*) *the Chairpersons of the Committees constituted under clause (5) of article 243S:*

Provided that the persons referred to in paragraph (i) shall not have the right to vote in the meetings of the Municipality;

(*b*) *the manner of election of the Chairperson of a Municipality."*

18. Article 243S provides for Constitution and composition of Wards Committees, etc. Article 243T provides for reservation of seats of SC and ST for every Municipality and number of seats reserved. Article 243U provides for duration of Municipalities sub-clause(1)states that every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.

19. Article ZF provides for continuance of existing laws and Municipalities which is to the following effect:

"243ZF. Continuance of existing laws and Municipalities.- *Notwithstanding anything in this Part, any provision of any law relating to Municipalities in force in a State immediately before the commencement of the Constitution (Seventy-fourth Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such*

commencement, whichever is earlier:

Provided that all the Municipalities existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State."

20. It is also relevant to notice certain provisions of Act, 1976, before we proceed further to examine the issue. The authority has been constituted by notification dated 17.04.1976 exercising power under Section 3 of Act, 1976. Section 3 provides for Constitution of the Authority which is to the following effect:

"3.(1) The State Government may, by notification, constitute for the purposes of this Act, An authority to be called (Name of the area) Industrial Development Authority, for any industrial development area.

(2) The Authority shall be a body corporate.

(3) The Authority shall consist of the following:-

(*a*) *The Secretary to the Government, Uttar Pradesh, Member Industries Department or his Nominee not below Chairman the rank of Joint Secretary-ex-official. Member Chairman*

(*b*) *The Secretary to the Government, Uttar Pradesh, Member Public works Department or his nominee not below the rank of Joint Secretary ex-official. Member*

(*c*) *The Secretary to the Government, Uttar Pradesh, Local Member Self-Government or his nominee not below the rank of joint Secretary-ex official. Member*

(*d*) *The Secretary to the Government, Uttar Pradesh, Finance Member Department or his nominee not below the rank of Joint Secretary-ex official.*

(*e*) *The Managing Director, U.P. State Industrial Development Member Corporation-ex official.*

(*f*) *Five members to be nominated by the State Government Member by notification. Member*

(*g*) *Chief Executive Officer. Member Secretary*

(4) The headquarters of the Authority shall be at such place as may be notified by the State Government.

(5) The procedure for the conduct of the meetings for the Authority shall be such as may be prescribed.

(6) No act or proceedings of the Authority shall be invalid by reason of the existence of any vacancy in or defect in the constitution of the Authority."

21. Section 6 provides for the function of the Authority which is to the following effect:

"6.(1) The object of the Authority shall be to secure the planned development of the industrial development area.

(2) Without prejudice to the generality of the objects of the Authority, the Authority shall perform

the following functions :-

(*b*) *to prepare a plan for the development of the industrial development area;*

(*c*) *to demarcate and develop sites for industrial, commercial and residential purpose according to the plan;*

(*d*) *to provide infrastructure for industrial, commercial and residential purposes;*

(*e*) *to provide amenities;*

(*f*) *to allocate and transfer either by way of sale or lease or otherwise plots of land for industrial, commercial or residential purposes;*

(*g*) *to regulate the erection of buildings and setting up of industries: and*

(*h*) *to lay down the purpose for which a particular site or plot of land shall be used, namely for industrial or commercial or residential purpose or any other specified purpose in such area."*

22. Section 7 deals with power of the Authority in respect of transfer of land. Section 8 deals with power to issue directions in respect of creation of building. Section 9 deals with ban on erection of building in contravention of regulations. Section 10 deals with power to require proper maintenance of site or building. Section 11 empowers the Authority to levy of tax. By Section 12 certain provisions of U.P. Urban Planning and Development Act, 1973 has been made applicable.

Chapter VII deals Finance, Accounts and Audit.

23. We may also notice the notification dated 24.12.2001 issued by the Governor in exercise of the powers under the proviso to Clause (1) of Article 243Q. The notification is as follows:

"NOTIFICATION No.6709/77-4-2001-56 Bha/99

In exercise of the powers under the proviso to Clause (1) of Article 243Q of the Constitution of India, the Governor, having regard to the size of the New Okhla Industrial Development Area, which has been declared as an industrial development area by Government Notification No.4157-HI/XVIII-11, dated April 17, 1976 and the municipal services being provided by the New Okhla Industrial Development Authority in that area, is pleased to specify the said New Okhla Industrial Development Area to be an "industrial township" with effect from the date of publication of this notification in the official gazette.

By order,

Sd/-

(Anoop Mishra)

Secretary."

24. The submissions made by the parties can be dealt with in the following two heads:

A. The status of the Authority by virtue of notification dated 24.12.2001 issued under Clause (1) of Article 243Q.

B. Whether the appellant is a local authority "within the meaning of Section 10 sub-section (20) as explained in Explanation added by Finance Act, 2002.

(A) Part IXA of the Constitution:

25. The Statement of Objects and Reasons of the Constitution 74th Amendment Act, 1992, briefly outlined the object and purpose for which Constitution Amendment was brought in. It is useful to refer to the Statement of Objects and Reasons of the Constitution Amendment which is to the following effect:

"STATEMENT OF OBJECTS AND REASONS

> *In many States local bodies have become weak and ineffective on account of a variety of reasons, including the failure to hold regular elections, prolonged supersessions and inadequate devolution of powers and functions. As a result, Urban Local Bodies are not able to perform effectively as vibrant democratic units of self-government.*
>
> *2. Having regard to these inadequacies, it is considered necessary that provisions relating to Urban Local Bodies are incorporated in the Constitution particularly for-*
>
> *(i) putting on a firmer footing the relationship between the State Government and the Urban Local Bodies with respect to-*
>
> *(a) the functions and taxation powers; and*
>
> *(b) arrangements for revenue sharing;*
>
> *(ii) Ensuring regular conduct of elections;*
>
> *(iii) ensuring timely elections in the case of supersession; and*
>
> *(iv) providing adequate representation for the weaker sections like Scheduled Castes, Scheduled Tribes and women."*

26. The ***Kishansing Tomar Municipal Corporation Of The City Of Ahmedabad Ad Others***noticing the object and purpose of Constitution 74th Amendment Act, 1992 stated as following:

> ***"12.*** *It may be noted that Part IX-A was inserted in the Constitution by virtue of the Constitution (Seventy-fourth) Amendment Act, 1992. The object of introducing these provisions was that in many States the local bodies were not working properly and the timely elections were not being held and the nominated bodies were continuing for long periods. Elections had been irregular and many times unnecessarily delayed or postponed and the elected bodies had been superseded or suspended without adequate justification at the whims and fancies of the State authorities. These views were expressed by the then Minister of State for Urban Development while introducing the Constitution Amendment Bill before Parliament and thus the new provisions were added in the Constitution with a view to restore the rightful place in political governance for local bodies. It was considered necessary to provide a constitutional status to such bodies and to ensure regular and fair conduct of elections. In the Statement of Objects and Reasons in the Constitution Amendment Bill relating to urban local bodies, it was stated:"*

27. The constitutional provisions as contained in Part IXA delineate that the Constitution itself provided for constitution of Municipalities, duration of Municipalities, powers of Authorities and responsibilities of the Municipalities. The Municipalities are created as vibrant democratic units of self-government. The duration of Municipality was provided for five years contemplating regular election for electing representatives to represent the Municipality. The special features of the Municipality as was contemplated by the constitutional provisions contained in Part IXA cannot be said to be present in Authority as delineated by statutory scheme of Act, 1976. It is true that various municipal functions are also being performed by the Authority as per Act, 1976 but the mere facts that certain municipal functions were also performed by the authority it cannot acquire the essential features of the Municipality which are contemplated by Part IXA of the Constitution. The main thrust of the argument of the learned counsel for the appellant that the High Court having not adverted to the notification dated

24.12.2001 issued under proviso to Article 243Q(1) the judgments relied on by the High Court for dismissing the writ petition is not sustainable. We thus have to focus on proviso to Article 243Q(1). For the purpose and object of the industrial township referred to therein whether industrial township mentioned therein can be equated with Municipality as defined under Article 243P(e). Article 243P(e) provides that the "Municipality means an institution of self-government constituted under Article 243Q. Whether the appellant is a institution of self-government constituted under Article 243Q is the main question to be answered? Sub-clause (1) of Article 243Q provides that there shall be constituted in every State- a Nagar Panchayat, a Municipal Council and a Municipal Corporation, in accordance with the provisions of this Part. The proviso to sub-clause (1) provides that: "Provided that a municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided for an industrial establishment in that area and such other factors as may he may deem fit, by public notification, specify to be an industrial township.".

28. Thus, proviso does not contemplate constitution of an industrial establishment as a Municipality rather clarifies an exception where Municipality under clause (1) of Article 243Q may not be constituted in an urban area. The proviso is an exception to the constitution of Municipality as contemplated by sub-clause (1) of Article 243Q. No other interpretation of the proviso conforms to the constitution scheme.

29. A Constitution Bench of this Court had noticed the principles of statutory interpretation of a proviso in ***S. Sundaram Pillai and others* v. *V.R. Pattabiraman and others*, 1985(1) SCC 591.** The following has been laid down by this Court in paragraphs 37 to 43:

> *"**37.** In short, generally speaking, a proviso is intended to limit the enacted provision so as to except something which would have otherwise been within it or in some measure to modify the enacting clause. Sometimes a proviso may be embedded in the main provision and becomes an integral part of it so as to amount to a substantive provision itself.*
>
> ***38.** Apart from the authorities referred to above, this Court has in a long course of decisions explained and adumbrated the various shades, aspects and elements of a proviso. In State of Rajasthan v. Leela Jain, AIR 1965 SC 1296, the following observations were made:*
>
> *"So far as a general principle of construction of a proviso is concerned, it has been broadly stated that the function of a proviso is to limit the main part of the section and carve out something which but for the proviso would have been within the operative part."*
>
> ***39.** In the case of STO, Circle-I, Jabalpur v. Hanuman Prasad, AIR 1967 SC 565, Bhargava, J. observed thus:*
>
> *"It is well-recognised that a proviso is added to a principal clause primarily with the object of taking out of the scope of that principal clause what is included in it and what the legislature desires should be excluded."*
>
> ***40.** In Commissioner of Commercial Taxes v. R.S. Jhaver, AIR 1968 SC 59, this Court made the following observations:*
>
> *"Generally speaking, it is true that the proviso is an exception to the main part of the section; but it is recognised that in exceptional cases a proviso may be a substantive provision itself."*
>
> ***41.** In Dwarka Prasad v. Dwarka Das Saraf, AIR 1975 SC 1758 Krishna Iyer, J. speaking for the Court observed thus: (SCC pp. 136-37, paras 16, 18)*
>
> *"There is some validity in this submission but if, on a fair construction, the principal provision is*

clean a proviso cannot expand or limit it. Sometimes a proviso is engrafted by an apprehensive draftsman to remove possible doubts, to make matters plain, to light up ambiguous edges. Here, such is the case.

** ** **

If the rule of construction is that prima facie a proviso should be limited in its operation to the subject-matter of the enacting clause, the stand we have taken is sound. To expand the enacting clause, inflated by the proviso, sins against the fundamental rule of construction that a proviso must be considered in relation to the principal matter to which it stands as a proviso. A proviso ordinarily is but a proviso, although the golden rule is to read the whole section, inclusive of the proviso, in such manner that they mutually throw light on each other and result in a harmonious construction."

42. *In Hiralal Rattanlal v. State of U.P., 1973 (1)SCC 216, this Court made the following observations: [SCC para 22, p. 224: SCC (Tax) p. 315]*

"Ordinarily a proviso to a section is intended to take out a part of the main section for special treatment. It is not expected to enlarge the scope of the main section. But cases have arisen in which this Court has held that despite the fact that a provision is called proviso, it is really a separate provision and the so-called proviso has substantially altered the main section."

43. *We need not multiply authorities after authorities on this point because the legal position seems to be clearly and manifestly well established. To sum up, a proviso may serve four different purposes:*

(1) *qualifying or excepting certain provisions from the main enactment:*

(2) *it may entirely change the very concept of the intendment of the enactment by insisting on certain mandatory conditions to be fulfilled in order to make the enactment workable:*

(3) *it may be so embedded in the Act itself as to become an integral part of the enactment and thus acquire the tenor and colour of the substantive enactment itself; and*

(4) *it may be used merely to act as an optional addenda to the enactment with the sole object of explaining the real intendment of the statutory provision."*

30. Applying rules of interpretation as laid down by this Court, it is clear that proviso is an exception to the constitutional provisions which provide that there shall be constituted in every State a Nagar Panchayat, a Municipal Council and a Municipal Corporation. Exception is covered by proviso that where an industrial township is providing municipal services the Governor having regard to the size of the area and the municipal services either being provided or proposed to be provided by an industrial establishment specify it to be an industrial township. The words 'industrial township' have been used in contradiction of a Nagar Panchayat, a Municipal Council and a Municipal Corporation. The object of issuance of notification is to relieve the mandatory requirement of constitution of a Municipality in a State in the circumstances as mentioned in proviso but exemption from constituting Municipality does not lead to mean that the industrial establishment which is providing municipal services to an industrial township is same as Municipality as defined in Article 243P(e). We have already noticed that Article 243P(e) defines Municipality as an institution of self-government constituted under Article 243Q, the word constituted used under Article 243P(e) read with Article 243Q clearly refers to the constitution in every State a Nagar Panchayat, a Municipal Council or a Municipal Corporation. Further, the words in proviso "a Municipality under this clause may not be constituted" clearly means that the words "may not be constituted" used in proviso are clearly in contradistinction with the word constituted as used in

Article 243P(e) and Article 243Q. Thus, notification under proviso to Article 243Q(1) is not akin to constitution of Municipality. We, thus, are clear in our mind that industrial township as specified under notification dated 24.12.2001 is not akin to Municipality as contemplated under Article 243Q.

31. At this juncture, we may also notice the two judgments as relied on by the High Court and three more judgments where Article 243Q came for consideration. The first judgment which needs to be noticed is ***Adityapur Industrial Area Development Authority (supra).*** The Adityapur Industrial Development Authority was constituted under the Bihar Industrial Area Development Authority Act, 1974. In paragraph 2 of the judgment the constitution of the authority was noticed which is to the following effect:

> *"**2.** The appellant Authority has been constituted under the Bihar Industrial Area Development Authority Act, 1974 to provide for planned development of industrial area, for promotion of industries and matters appurtenant thereto. The appellant Authority is a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of properties, both movable and immovable, to contract, and by the said name sue or be sued. The Authority consists of a Chairman, a Managing Director and five other Directors appointed by the State Government. The Authority is responsible for the planned development of the industrial area including preparation of the master plan of the area and promotion of industries in the area and other amenities incidental thereto. The Authority has its own establishment for which it is authorised to frame regulations with prior approval of the State Government. The State Government is authorised to entrust the Authority from time to time with any work connected with planned development, or maintenance of the industrial area and its amenities and matters connected thereto. Section 7 of the Act obliges the Authority to maintain its own fund to which shall be credited moneys received by the Authority from the State Government by way of grants, loans, advances or otherwise, all fees, rents, charges, levies and fines received by the Authority under the Act, all moneys received by the Authority from disposal of its movable or immovable assets and all moneys received by the Authority by way of loan from financial and other institutions and debentures floated for the execution of a scheme or schemes of the Authority duly approved by the State Government. Unless the State Government directs otherwise, all moneys received by the Authority shall be credited to its funds which shall be kept with State Bank of India and/or one or more of the nationalised banks and drawn as and when required by the Authority."*

32. On the question as to whether the Adityapur Industrial Area Development Authority was covered within the meaning of local authority as per Section 10(20) as amended by the Finance Act, 2002, the High Court held that the appellant authority could not have claimed benefit under the provisions after 01.04.2003. In paragraphs 6 and 7 following was held:

> *"**6.** It would thus be seen that the income of a local authority chargeable under the head "Income from house property", "Capital gains" or "Income from other sources" or from a trade or business carried on by it was earlier excluded in computing the total income of the Authority of a previous year. However, in view of the amendment, with effect from 1-4-2003 the Explanation "local authority" was defined to include only the authorities enumerated in the Explanation, which does not include an authority such as the appellant. At the same time Section 10(20-A) which related to income of an authority constituted in India by or under any law enacted for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, which before the amendment was not included in computing the ^ total income, was omitted. Consequently, the benefit conferred by sub-section (20-A) on such an authority was taken away.*
>
> ***7.** The High Court by its impugned judgment and order held that in view of the fact that Section*

10(20-A) was omitted and an Explanation was added to Section 10(20) enumerating the "local authorities" contemplated by Section 10(20), the appellant Authority could not claim any benefit under those provisions after 1-4-2003. It further held that the exemption under Article 289(1) was also not available to the appellant Authority as it was a distinct legal entity, and its income could not be said to be the income of the State so as to be exempt from Union taxation. The said decision of the High Court is impugned in this appeal."

33. One of the submissions which was raised before this Court was that exemption under Article 289(1), was also available to the appellant-Authority. The said submission was considered and negativated. Apart from rejecting the claim under Article 289(1), this court noticing Section 10(20) has held in paragraph 13:

*"**13.** Applying the above test to the facts of the present case it is clear that the benefit, conferred by Section 10(20-A) of the Income Tax Act, 1961 on the assessee herein, has been expressly taken away. Moreover, the Explanation added to Section 10(20) enumerates the "local authorities" which do not cover the assessee herein. Therefore, we do not find any merit in the submission advanced on behalf of the assessee."*

34. In the present case although exemption under Article 289 was not claimed or contended but the above judgment cannot be said to be not relevant to the present case since, the Court has also dwelled upon Section 10(20) as amended w.e.f. 01.04.2003. We, thus, do not accept the submission of the appellant that the above case was not relevant for the present case and was wrongly relied on by the High Court.

35. The second judgment which is relied on by the High court is ***Agricultural Produce Market Committee, Narela(supra)***. The Agricultural Produce Market Committee was constituted under the Delhi Agricultural Produce Marketing (Regulation) Act, 1998. The question arose as to whether Agricultural Market Committee is a "local authority" under the Explanation to Section 10(20) of the Income Tax Act, 1961. In the above context it was noticed that all Agricultural Market Committees at different places were enjoying exemption from income tax under Section 10(20) prior to its amendment by the Finance Act, 2002 w.e.f. 01.04.2003. The definition of 'local authority' under Section 3(31) of General Clauses Act, 1897 is as follows:

""local authority" shall mean a municipal committee, district board, body or port Commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund;"

36. In the above case this Court noticed *in extenso* the provisions of Delhi Agricultural Produce Marketing (Regulation) Act, 1998 and provisions of Section 10(20) of the Income Tax Act, 1961. Definition of local authority as contained in Explanation to Section 10(20) and Section 3(31) of the General Clauses Act was also noticed and discussed. This Court held that the definition of local authority in General Clauses Act under Section 3(31) is no longer applicable after the amendment of Section 10(20) by Finance Act, 2002. Following was laid down by this Court in paragraphs 31 and 32:

***31.** Certain glaring features can be deciphered from the above comparative chart. Under Section 3(31) of the General Clauses Act, 1897, "local authority" was defined to mean "a Municipal Committee, District Board, Body of Port Commissioners or other authority legally entitled to ... the control or management of a municipal or local fund". The words "other authority" in Section 3(31) of the 1897 Act have been omitted by Parliament in the Explanation/definition clause inserted in Section 10(20) of the 1961 Act vide the Finance Act, 2002. Therefore, in our view, it would not be correct to say that the entire definition of the word "local authority" is bodily lifted from Section 3(31) of the 1897 Act and incorporated, by Parliament, in the said Explanation to Section 10(20) of*

the 1961 Act. This deliberate omission is important.

32. *It may be noted that various High Courts had taken the view prior to the Finance Act, 2002 that AMC(s) is a "local authority". That was because there was no definition of the word "local authority" in the 1961 Act. Those judgments proceeded primarily on the functional tests as laid down in the judgment of this Court vide para 2 in R.C. Jain. We quote hereinbelow para 2 which reads as under: (SCC pp. 311-12)*

"2. Let us, therefore, concentrate and confine our attention and enquiry to the definition of 'local authority' in Section 3(31) of the General Clauses Act. A proper and careful scrutiny of the language of Section 3(31) suggests that an authority, in order to be a local authority, must be of like nature and character as a Municipal Committee, District Board or Body of Port Commissioners, possessing, therefore, many, if not all, of the distinctive attributes and characteristics of a Municipal Committee, District Board, or Body of Port Commissioners, but, possessing one essential feature, namely, that it is legally entitled to or entrusted by the Government with, the control and management of a municipal or local fund. What then are the distinctive attributes and characteristics, all or many of which a Municipal Committee, District Board or Body of Port Commissioners shares with any other local authority? First, the authorities must have separate legal existence as corporate bodies. They must not be mere governmental agencies but must be legally independent entities. Next, they must function in a defined area and must ordinarily, wholly or partly, directly or indirectly, be elected by the inhabitants of the area. Next, they must enjoy a certain degree of autonomy, with freedom to decide for themselves questions of policy affecting the area administered by them. The autonomy may not be complete and the degree of the dependence may vary considerably but, an appreciable measure of autonomy there must be. Next, they must be entrusted by statute with such governmental functions and duties as are usually entrusted to municipal bodies, such as those connected with providing amenities to the inhabitants of the locality, like health and education services, water and sewerage, town planning and development, roads, markets, transportation, social welfare services, etc. etc. Broadly we may say that they may be entrusted with the performance of civic duties and functions which would otherwise be governmental duties and functions. Finally, they must have the power to raise funds for the furtherance of their activities and the fulfilment of their projects by levying taxes, rates, charges, or fees. This may be in addition to moneys provided by Government or obtained by borrowing or otherwise. What is essential is that control or management of the fund must vest in the authority."

37. The Court further held that Explanation under Section 10(20) provides an exhaustive definition and the tests laid down by this Court in an earlier case i.e. ***Union of India and others v. R.C. Jain and others,*** **1981 (2) SCC 308,** are no longer applicable. In paragraph 35 following was stated:

"35. *One more aspect needs to be mentioned. In R.C. Jain the test of "like nature" was adopted as the words "other authority" came after the words "Municipal Committee, District Board, Body of Port Commissioners". Therefore, the words "other authority" in Section 3(31) took colour from the earlier words, namely, "Municipal Committee, District Board or Body of Port Commissioners". This is how the functional 2 test is evolved in R.C. Jain. However, as stated earlier, Parliament in its legislative wisdom has omitted the words "other authority" from the said Explanation to Section 10(20) of the 1961 Act. The said Explanation to Section 10(20) provides a definition to the word "local authority". It is an exhaustive definition. It is not an inclusive definition. The words "other authority" do not find place in the said Explanation. Even, according to the appellant(s), AMC(s) is neither a Municipal Committee nor a District Board nor a Municipal Committee nor a panchayat. Therefore, in our view functional test and the test of 2 incorporation as laid down in R.C. Jain is no more applicable to the Explanation to Section 10(20) of the 1961 Act. Therefore, in our view 2 the*

judgment of this Court in R.C. Jain followed by judgments of various High Courts on the status and character of AMC(s) is no more applicable to the provisions of Section 10(20) after the insertion of the Explanation/definition clause to that sub-section vide the Finance Act, 2002."

38. This Court held that Agricultural Marketing Committee is also not covered by the words "Municipal Committee, District Board, Body of Port Commissioners" as used in Explanation of Section 10(20).

39. In this context, we also refer to the judgment of this Court in ***Saij Gram Panchayat v. State of Gujarat an others,* 1999 (2) SCC 366**. This Court had occasion to consider in the above case Gujarat Industrial Development Act, 1962, the provisions of Article 243Q and Gujarat Municipalities Act, 1963.

40. This Court held that Gujarat Industrial Development Act operates in a totally different sphere from Parts IX and IXA of the Constitution and the Gujarat Panchayats Act, 1961. In paragraph 16 of the judgment following was held:

"*The Gujarat Industrial Development Act operates in a totally different sphere from Parts IX and IX-A of the Constitution as well as the Gujarat Panchayats Act, 1961 and the Gujarat Municipalities Act, 1962 - the latter being provisions dealing with local self-government, while the former being an Act for industrial development and orderly establishment and organisation of industries in a State."*

41. It is, however, true that in the above case this Court was not concerned with the issue which has arisen in the present case and the Court was concerned with a different controversy.

42. We, thus, conclude that authority constituted under Act, 1976 with regard to which notification under proviso to Article 243Q(1) dated 24.12.2001 has also been issued is not akin to the Municipality constituted under Article 243Q(1).

B. Section 10(20) as amended by the Finance Act, 2002

43. We have already noticed that by the Finance Act, 2002 an Explanation has been added to Section 10(20) of the I.T. Act, 1961 and Section 10(20A) has been omitted. Prior to Finance Act, 2002 there being no definition of 'local authority' under the I.T. Act, the provisions of Section 3(31) of the General Clauses Act, 1897 were pressed into service while interpreting the extent and meaning of local authority. The Explanation having now contained the exhaustive definition of local authority, the definition of local authority as contained in Section 3(31) of General Clauses Act, 1892 is no more applicable. Section 3 of the General Clauses Act begins with the words "In this Act, and in all Central Acts and Regulations made after the commencement of this Act, unless there is anything repugnant in the subject or context,-.... The definition given of the local authority under Section 3(31) does not now govern the field in view of the express omission of the expression "all other authority". This Court has already in ***Agricultural Produce Market Committee, Narela (supra),*** held that definition under Section 3(31) of the General Clauses Act is now no more applicable to interpret local authority under Section 10(20) of the I.T. Act. Before we proceed further it shall be useful to notice certain well settled principles of statutory interpretation of fiscal statutes. This Court in ***A.V. Fernandez v. The State of Kerala,* AIR 1957 SC 657** laid following:

"(29) It is no doubt true that in construing fiscal statutes and in determining the liability of a subject to tax one must have regard to the strict letter of the law and n ot merely to the spirit of the statute or the substance of the law. If the Revenue satisfies the Court that the case falls strictly within the provisions of the law, the subject can be taxed. If on the other hand, the case is not covered within the four corners of the provisions of the taxing statute, no tax can be imposed by inference or by analogy or by trying to probe into the intentions of the legislature and by considering what was the substance of the matter. We must of necessity, therefore, have regard to

the actual provisions of the Act and the rules made thereunder before we can come to the conclusion that the appellant was liable to assessment as contended by the Sales Tax Authorities."

44. This Court in ***Rajasthan Rajya Sahakari Spinning and Ginning Mills Federation Limited v. Deputy Commissioner of Income Tax, Jaipur*, 2014(11) SCC 672** again reiterated that there has to be strict interpretation of taxing statutes and further the fact that one class of legal entities are given some benefit which is specifically stated in the Act does not mean that the legal entities not referred to in the Act would also get the same benefit. Following was laid down in paragraph 23:

*"**23.** We are also of the view that in all the tax matters one has to interpret the taxation statute strictly. Simply because one class of legal entities are given some benefit which is specifically stated in the Act does not mean that the legal entities not referred to in the Act would also get the same benefit. As stated by this Court on several occasions, there is no equity in matters of taxation. One cannot read into a section which has not been specifically provided for and therefore, we do not agree with the submissions of the learned counsel appearing for the appellant and we are not prepared to read something in the section which has not been provided for. The judgments referred to hereinabove support the view which we have expressed here."*

45. It shall be useful to refer to Explanatory Notes on Finance Act, 2002. Explanatory Notes both on Section 10(20) and Section 10(20A) are relevant and contained in paragraph 12.2 to 12.4 and 13.1 to 13.4. Paragraphs 12.2. to 12.4 under the heading: **Income of certain Local Authorities to become taxable** are to the following effect:

*"**12.2** Through Finance Act, 2002, this exemption has been restricted to the Panchayats and Municipalities as referred to in Articles 243(d) and 243(p)(e) of the Constitution of India respectively. Municipal Committees and District Boards, legally entitled to or entrusted by the Government with the control or management of a Municipal or a local fund and Cantonment Boards as defined under section 3 of the Cantonments Act, 1924.*

***12.3** The exemption under clause (20) of section 10 would, therefore, not be available to Agricultural Marketing Societies and Agricultural Marketing Boards, etc., despite the fact that they may be deemed to be treated as local authorities under any other Central or State Legislation. Exemption under this clause would not be available to port trusts also.*

***12.4** This amendment will take effect from 1st April, 2003 and will, accordingly, apply in relation to the assessment year 2003 2004 and subsequent assessment years."*

46. Further paragraphs 13.1 to 13.4 of the Explanatory Notes contained heading: "**Income of certain Housing Boards etc. to become taxable**" on deletion of Clause (20A), are as stated below:

*"**13.1** Under the existing provisions contained in clause (20A) of section 10, income of the Housing Boards or other statutory authorities set up for the purpose of dealing with or satisfying the need for housing accommodations or for the purpose of planning, development or improvement of cities, towns and villages is exempt from payment of income tax.*

***13.2** Through Finance Act, 2002 clause (20A) of section 10 has been deleted so as to withdraw exemption available to the abovementioned bodies. The income of Housing Boards of the States and of Development Authorities would, therefore, also become taxable.*

***13.3** Under section 80G, donation made to housing authorities, etc. referred to in clause (20A) of section 10 is eligible for 50% deduction from total income in the hands of the donors. Since clause (20A) of section 10 has been deleted, donation to the housing authorities etc. would not be eligible for deduction in the hands of the donors and this may result in drying up of donations. To continue*

the incentive to donation made to housing authorities etc., section 80G has been amended so as to provide that 50% of the sum paid by an assessee to an authority constituted in India by or under any law enacted either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both, shall be deducted from the total income of such assessee.

***13.4** These amendments will take effect from lst April, 2003 and will, accordingly, apply in relation to the assessment year 2003 2004 and subsequent assessment years."*

47. The explanatory note clearly indicates that by Finance Act, 2002 the exemption under Section 10(20) has been restricted to the Panchayats and Municipalities as referred to in Articles 243P(d) and 243P(e). Further by deletion of Clause (20A), the income of the Housing Boards of the States and of Development Authorities became taxable.

48. On a writ petition filed by the appellant before the Allahabad High Court where the notices issued in the year 1998 under Section 142 of the Income Tax Act was challenged vide its judgment dated 14.02.2000 the High Court held that appellant's case comes squarely under Section 10(20A) of the Income Tax Act, hence, the appellant was liable to be exempted under the said Act, although, the High Court did not express any opinion on the question whether appellant was exempted under Section 10(20) in that judgment.

49. After omission of Section 10(20A) only provision under which a Body or Authority can claim exemption is Section 10(20). Local authority having been exhaustively defined in the Explanation to Section 10(20) an entity has to fall under Section 10(20) to claim exemption. It is also useful to notice that this Court laid down in ***State of Gujarat and others v. ESSAR Oil Limited and another,*** **2012 (3) SCC 522,** that a person invoking an exception or an exemption provision to relieve him of the tax liability must establish clearly that he is covered by the said provision. It is useful to extract paragraph 88 which is to the following effect:

***"88.** This Court in Novopan case, 1994 Supp (3) SCC 606, held that the principle that in case of ambiguity, a taxing statute should be construed in favour of the assessee, does not apply to the construction of an exception or an exempting provision, as the same have to be construed strictly. Further this Court also held that a person invoking an exception or an exemption provision to relieve him of the tax liability must establish clearly that he is covered by the said provision and in case of doubt or ambiguity, benefit of it must go to the State."*

50. For interpreting an explanation this Court in ***s. Sundaram Pillai and others v. V.r. Pattabiraman and others,*** **1985 (1) SCC 591,** laid down in paragraphs 47 and 53 as follows:

***"47.** Swarup in Legislation and Interpretation very aptly sums up the scope and effect of an Explanation thus:*

"Sometimes an Explanation is appended to stress upon a particular thing which ordinarily would not appear clearly from the provisions of the section. The proper function of an Explanation is to make plain or elucidate what is enacted in the substantive provision and not to add or subtract from it. Thus an Explanation does not either restrict or extend the enacting part; it does not enlarge or narrow down the scope of the original section that it is supposed to explain.... The Explanation must be interpreted according to its own tenor; that it is meant to explain and not vice versa." (pp. 297-98)

***53.** Thus, from a conspectus of the authorities referred to above, it is manifest that the object of an Explanation to a statutory provision is-*

"(*a*) to explain the meaning and intendment of the Act itself,

(*b*) where there is any obscurity or vagueness in the main enactment, to clarify the same so as to make it consistent with the dominant object which it seems to subserve,

(*c*) to provide an additional support to the dominant object of the Act in order to make it meaningful and purposeful,

(*d*) an Explanation cannot in any way interfere with or change the enactment or any part thereof but where some gap is left which is relevant for the purpose of the Explanation, in order to suppress the mischief and advance the object of the Act it can help or assist the Court in interpreting the true purport and intendment of the enactment, and

(*e*) it cannot, however, take away a statutory right with which any person under a statute has been clothed or set at naught the working of an Act by becoming an hindrance in the interpretation of the same."

51. This Court in ***Adityapur Industrial Area Development Authority (supra)*** after considering Section 10(20) as amended by the Finance Act, 2002 and consequences of deletion of Section 10(20A) has laid down following in paragraph 13:

> ***"13.*** *Applying the above test to the facts of the present case it is clear that the benefit, conferred by Section 10(20-A) of the Income Tax Act, 1961 on the assessee herein, has been expressly taken away. Moreover, the Explanation added to Section 10(20) enumerates the "local authorities" which do not cover the assessee herein. Therefore, we do not find any merit in the submission advanced on behalf of the assessee."*

52. It is also relevant to notice that this Court in ***Gujarat Industrial Development Corporation v. Commissioner of Income Tax*****, 1997 (7) SCC 17,** after considering the provisions of Section 10(20A) of I.T. Act held that Gujarat Industrial Development Corporation is entitled for exemption under Section 10(20A). The Gujarat Industrial Development Corporation was held to be entitled for exemption under Section 10(20A) at the time when the provision was in existence in the statute book and after its deletion from the statute book the exemption is no more available. Now, reverting back to Section 10(20) as amended by Finance Act, 2002, the same has also come for consideration before different High Courts. A Division Bench of the Allahabad High court in ***Krishi Utpadan Mandi Samiti v. Union of India and*****another, (2004) 267 ITR 460** stated following:

> "*A bare perusal of the Explanation of Section 10(20) shows that now only four entities are local authorities for the purpose of Section 10(20), namely, (i) Panchayat, (ii) Municipality; (iii) Municipal Committee and District Board; (iv) Cantonment Board Krishi Utpadan Mandi Samiti is not one of the entities mentioned in the Explanation to Section 10(20).*
>
> *It may be noted that the Explanation to Section 10(20) uses the word 'means' and not the word 'includes'. Hence, it is not possible for this Court to extend the definition of 'local authority' as contained in the Explanation to Section 10(20), vide P. Kasilingam v. P.S.G. College of Technology, AIR 1995 SC 1395 (para 19). It is also not possible to refer to the definitions in other Acts, as the IT Act now specifically defines 'local authority'.*
>
> *It is well settled that in tax matters the literal rule of interpretation applies and it is not open to the Court to extend the language of a provision in the Act by relying on equity, inference, etc.*
>
> *It is the first principle of interpretation that a statute should be read in its ordinary, natural and grammatical sense as observed by the Supreme Court of India:*

"In construing a statutory provision the first and foremost rule of construction is the literary construction. All that the Court has to see at the very outset is what does the provision say. If the provision is unambiguous and if from the provision the legislative intent is clear, the Court need not call into aid the other rules of construction of statutes. The other rules of construction are called into aid only when the legislative intent is not clear" vide Hiralal Ratanlal v. STO, AIR 1973 SC 1034;"

53. A Division Bench of the Delhi High Court also in ***Agricultural Produce Market Committee v. Commissioner of Income-tax*, (2006)156 ITR 286** had occasion to consider Section 10(20) as amended w.e.f. 01.04.2003 where the High court in paragraph 8 has stated the following:

"8. The most striking feature of the Explanation is that the same provides an exhaustive meaning to the expression "local authority". The word "means" used in the Explanation leaves no scope for addition of any other entity as a 'local authority' to those enlisted in the Explanation. In other words, even if an entity constitutes a 'local authority' for purposes of the General Clauses Act, 1897 or for purposes of any other enactment for that matter, it would not be so construed for purposes of section 10(20) of the Act unless it answers the description of one of those entities enumerated in the Explanation. Mrs. Ahlawat did not make any attempt to bring her case under clauses (i), (ii) and (iv) of the Explanation and in our opinion rightly so because the appellant committee cannot by any process of reasoning be construed as a Panchayat as referred to in clause (d) of Art. 243 of the Constitution of India, a municipality in terms of clause (e) of Art. 243P of the Constitution of India or a Cantonment Board as defined under section 3 of the Cantonments Act, 1924. What she argued was that looking to the nature of the functions enjoined upon the appellant committee, it must be deemed to be a municipal committee within the meaning of that expression in clause (iii) of the Explanation. We regret our inability to accept that submission. We say so for two distinct reasons. Firstly because the expression "municipal committee" appears in a taxing statute and must, Therefore, be construed strictly. It is fairly well-settled by a long line of decisions rendered by the Supreme Court that while interpreting a taxing statute, one has simply to look to what is clearly stated therein. There is, in fiscal statutes, no room for any intendment nor is there any equity about the levy sanctioned under the same. The following passage from Cape Brandy Syndicate v. IRC 1921 (1) KB 64 has been approved by the Apex Court in the decisions rendered by their Lordships.

"in a taxing Act one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no presumption as to a tax. Nothing is to be read in, nothing is to be implied, One can only look fairly at the language used."

54. We fully endorse the views taken by the High Court in the above two judgments.

55. Now, reverting back to Explanation to Section 10(20), these are entities which mean the local authority. The submission of the appellant is that the appellant is covered by Clause (ii) of the Explanation i.e. "Municipality as referred to in clause (e) of Article 243P of the Constitution". We, while discussing above provisions, have already held that the appellant is not covered by the word/expression of "Municipality" in clause (e) of Article 243P. Thus, the appellant is not clearly included in sub-clause (ii) of Explanation. It is not even the case of the appellant that the appellant is covered by Section 10(20) except clause (ii).

56. Thus, we are of the considered opinion that the appellant is not covered by the definition of local authority as contained in Explanation to Section 10(20).

57. In view of what has been stated above, we dismiss these appeals.

■■