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TULSIPUR SUGAR CO. LTD. ETC.  
v.  
SECRETARY TO THE GOVERNMENT OF U.P. & ORS.

MAY 2, 1986.

B [P.N. BHAGWATI, C.J., O. CHINNAPPA REDDY, R.B. MISRA,  
V. KHALID AND G.L. OZA, JJ.]

U.P. Sugarcane (Purchase Tax) Act, 1961, s. 14 - Sugar factories - Grant of remission of purchase tax - Whether premissible/discriminatory.

C Words and Phrases: "encourage or regulate" - Meaning of - s.14(1)(a) U.P. Sugarcane (Purchase Tax) Act, 1961.

D Section 3(1)(a) of the U.P. Sugarcane (Purchase Tax) Act, 1961 provides for imposition of tax on the purchase of sugarcane by the owners of sugar factories. Section 14(1) of the Act empowers the State Government to grant remission in whole or in part of the tax payable in the public interest, with a view to (a) encourage or regulate the supply of sugercane to, or its purchase by the factories, or (b) encourage the establishment of new factories, or (c) assist  
E factories established after the crushing season 1957-58 and purchasing sugarcane yielding low sugar recovery.

F The Central Government by a notification dated September 29, 1973 issued under cl.(3) of the Sugarcane (Control) Order, 1966, fixed the minimum price of sugarcane for factories situated in eastern U.P. at Rs. 8.38 per quintal. To meet the growers demand for a higher price the Government of U.P. refixed the sugarcane price at Rs.12.25 per quintal for the sugar mills situated in the east zone. The sugar factories not being in a position to pay the higher price approached the State Government who by two notifications dated January 25,  
G 1975 issued under s.14(1)(a) of the Act granted remission in purchase tax to the extent of Re. 0.51 per quintal to twenty sugar factories in the area for the assessment year 1973-74.

H The appellants and some other factories having been denied any remission in purchase tax, challenged the notifications by filing petitions under Art. 226 of the Constitution which were dismissed by the High Court.

In these appeals by special leave, it was contended for the appellants that the State Government in refusing to extend the remission to the appellants had discriminated against them by singling them out for treating differently as the encouragement and regulation contemplated by cl.(a) of s.14(1) of the Act was necessary to all the factories in the eastern zone and not to a fortunate few, and that the impugned notifications suffered from the vice of Art. 14 of the Constitution inasmuch as the Government had discriminated between the factories falling in the same group as those which had a recovery of 8.5 or less had been granted remission, while the appellants who were also in similar position had been left out.

Dismissing the appeals, the Court,

**HELD:** 1. Article 14 of the Constitution forbids class legislation but permits reasonable classification. It, however, must fulfil the twin requirements: (1) it must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group, and (2) that the intelligible differentia must have a relationship to the object sought to be achieved by the statute. [950 C-D]

2. Section 14(1) of the Act confers a discretionary power on the State Government. It has been left entirely to the State to decide whether any particular factory should be granted remission or not, guided by the purpose set out in the relevant clause. Neither in cl. (a) nor in any other clause of s. 14(1) there is anything to indicate that the State Government must grant remission to all sugar factories for encouraging or regulating the supply of sugarcane. [948 E-F]

3. The three clauses of sub-s. (1) of s.14 of the Act have different object and purpose. The purpose of granting the power of remission under cl. (a) is encouragement and regulation of the supply of sugarcane, the object of cl.(b) is to encourage the establishment of new factories, and that of cl.(c) is to assist factories established after the crushing season 1957-58 and purchasing sugarcane yielding low recovery. A factory situated in one area or falling in one category may be in need of remission, while those which were not either

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situated in that area or did not fall in that category may not  
need it. Though the power conferred by cl.(a) is to be  
exercised for the purpose of encouraging and regulating the  
supply of sugarcane, in exercising this power the State  
Government may legitimately take the view that this purpose  
necessitates the grant of remission only to the sugar  
B factories purchasing sugarcane yielding low recovery.  
[948 C-E]

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4. The word 'encourage' in cl.(a) of s.14(1) suggests  
that the State Government is required to exercise the power  
where it feels that the sugar factory requires the help for  
the purpose of making purchases of sugarcane. The word  
'regulate' contemplates that the said power can be exercised  
with a view to take measures to promote the sale of sugarcane.  
If the power conferred by cl.(a) of s.14(1) has been exercised  
for the purpose of granting remission to only those sugar  
D factories which purchase sugarcane of low recovery, there is  
nothing wrong in so doing. [949 D-E]

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5. In the instant case by granting the remission only to  
sugar factories purchasing sugarcane of low recovery, the  
State Government has not violated Art. 14 of the Constitution.  
Nor was there any contravention of the provisions of cl.(a) of  
s.14(1). Such a question would have arisen if the grant of  
remission were founded on a ground extraneous to the  
provisions of s. 14(1). [949 A-B]

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6. The immediate factor affecting the economy is the  
recovery of sugar from sugarcane and the sugar content in the  
cane produced goes a long way to determine the cost of sugar.  
Thus, the sugar factories which were purchasing sugarcane  
yielding low recovery are distinguishable as a class  
separately from those which did not fall in it and there was a  
reasonable basis to classify those left out of that group.  
G [950 F-G]

**Anant Mills Co. Ltd. v. State of Gujarat & Ors., [1975]**  
3 S.C.R. 220, referred to.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1774 of  
H 1980 etc.

From the Judgment and Order dated 28.7.1978 of the  
Allahabad High Court in Civil Misc. Writ No. 495 of 1975.

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 B.R.L. Iyenger, Yogeshwar Prasad, S.P. Gupta, V.P. Sachthey, K.K. Venugopal, O.P. Rana, Dr. Y.S. Chitale, K.G. Bhagat, F.S. Nariman, Soli J. Sorabjee, H.K. Puri, G. Gopalakrishnan, Khaitan & Co., A. Subba Rao, Naunit Lal, K.M.K. Nair, J.B.D. & Co., P.R. Ramasesh, Bishambar Lal, G. Subramaniam, Ms. S. Dikshit, Ms. A. Subhashini, K.R. Nambiar, R.N. Poddar, B.M. Nagaria, Mrs. Rani Chhabra, R.B. Datar, P.H. Parekh, K.R. Nagaraja, B.D. Sharma, V.J. Francis, S. Markendaya, R.N. Sachthey, R. Ramachandran, S.S. Khanduja, Manoj Swarup & Co., P.K. Pillai, Baggar, K.L. Mehta, Swarup John & Co., G.S. Ramarao, C.V. Subba Rao, S.K. Gupta, G.S. Chatterjee, Probir Mittra, Mrs. J. Wad, S.K. Gambhir, Pramod Dayal, R.K. Jain, S.R. Srivastava, K.K. Mohan, Dhantaraj, D.K. Agarwal, S.K. Gupta, Raju Ramachandran, Ravindra Bana, Vinoo Bhagat, K.K. Jain, A.D. Sanger, Girish Chandra, C.K. Sucharita, T.C. Sharma, Mrs. Kitty Kumaramangalam. A.V. Rangam, R.V. Ratnam and D.M. Popat for the appearing parties.

The Judgment of the Court was delivered by

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**R.B. MISRA, J.** The present group of appeals directed against the judgment of the High Court of Judicature at Allahabad dated July 28, 1978 raises a common question of law. These appeals arise out of petitions under Article 226 of the Constitution challenging the two Notifications dated January 25, 1975 issued under section 14 of the U.P. Sugarcane (Purchase Tax) Act, 1961 (hereinafter referred to as the Act for short). The petitioners also sought a Mandamus directing the State Government to grant remission in purchase tax of 0.51 paise per quintal to all the Sugar factories situated in the State of U.P. As the pattern of facts is similar in all the cases, we would refer to the facts of Civil Appeal arising out of Writ Petition No. 409 of 1975 filed by M/s. Shree Sitaram Sugar Company Limited, Bhailtapur, District Deoris, against the State of Uttar Pradesh and others to bring out the question for consideration in these appeals.

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 The petitioner is a Public Limited Company and owns a sugar factory in Deoria known as Shree Sitaram Sugar Company Limited, Bhailtapur, U.P. The Sugar Factory is engaged in the manufacture of sugar by Vacuum Pan Process. It purchases sugarcane from the reserved area allocated to it under the provisions of U.P. (Regulation of Supply and Purchase) Act, 1953 and Sugarcane Control Order, 1966.

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A By a Notification dated September 29, 1973 issued under  
clause 3 of the Sugarcane (Control) Order, 1966, Central  
Government fixed the price of sugarcane for the factories  
situated in Uttar Pradesh. The minimum price fixed by this  
B Notification for the area in which the petitioner's factory  
was situated was Rs. 8.38 per quintal. The cane growers felt  
agitated as according to them, the price fixed was much too  
C low. They, therefore, made representation to the U.P.  
Government and as a result thereof the U.P. Government  
intervened in the matter and fixed sugarcane price at Rs.  
12.25 per quintal for the Sugar Mills situated in the East  
Zone. According to the petitioner, however, the price fixed  
D was exorbitant and as the petitioner and other sugar factories  
were likely to suffer enormous loses, the Sugar Factories  
approached the State of U.P. and brought to its notice that  
they were not in a position to pay the higher sugarcane price.  
The stand of the appellant-petitioner and others is that the  
Chief Minister was satisfied with the demand made by the sugar  
factories and he assured them that the State Government would  
E grant remission in purchase tax to all the factories situated  
in the East Zone. By a Notification issued under section 14(1)  
of the Act, the State Government granted remission to the  
extent of 0.51 paise per quintal to 18 Sugar Factories  
mentioned in the area. By another Notification of the same  
date, two more factories were granted the remission. As the  
remission was not granted to the appellant-petitioner and to  
some other factories similarly situated, they filed petitions  
under Article 226 of the Constitution challenging the afore-  
said Notification issued by the State Government.

F The State of U.P. resisted the petitions and denied the  
allegation of promisory estoppel and discrimination set up in  
the writ petition. The High Court dismissed those petitions by  
the impugned judgment. They have now approached this Court by  
special leave and raised the same contention before this Court  
as was raised by them before the High Court.

G In order to appreciate the points involved in the case,  
it would be appropriate at this stage to refer to the relevant  
provisions of the Act. Section 3 of the Act lays down that  
there shall be levied a tax on the purchase of sugarcane by  
the owner of (a) a factory at the rate of twenty five paise  
per maund of sugarcane; and (b) a unit at the rate of fifty  
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 A factory shall remove, or cause to be removed any sugar  
 produced in the factory either for consumption or for sale, or  
 for manufacture of any other commodity in or outside the  
 factory, until he has paid the tax levied under section 3, a  
 sum specified under sub-section (2), sub-section (3) or sub-  
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 section (4). The next relevant section with which we are  
 directly concerned is section 14. It confers powers on the  
 State Government to grant remission. As the decision of these  
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 appeals hinges upon the interpretation of section 14(1), it  
 would be advisable to read the section in full. Section 14(1)  
 reads :

"Section 14(1). The State Government, on being satisfied that it is necessary so to do in the public interest, with a view to -

(a) encourage or regulate the supply of sugarcane to, or its purchase by factories ; or

(b) encourage the establishment of new factories ; or

(c) assist factories established after the crushing season 1957-58 and purchasing sugarcane yielding low sugar recovery,

May by notification in the Gazette, remit, in whole or in part, the tax payable under this Act, in any assessment year, by every such factory falling under Clause (a) or Clause (b) or Clause (c)."

In the instant case, the Notification remitting the purchase tax was issued by the State Government on being satisfied so to do in the public interest with a view to encourage and regulate the supply of sugarcane to, or its purchase by the factories in the State of Uttar Pradesh during 1973-74 assessment year.

Dr. Chitale, appearing for the appellants with his usual candour and fairness, gave up the plea of promisory estoppel and confined his argument to discrimination made by the State Government in granting remission of tax to some factories and

A not to the appellants. According to him the encouragement and  
regulation as contemplated by clause (a) of section 14(1) of  
the Act was necessary to all the factories in the eastern zone  
and not only to a fortunate few. But the U.P. Government has  
B refused to extend the remission to the appellant illegally  
when clause (a) of section 14(1) contemplates giving benefit  
to all the factories and there was no justification for  
singling out the appellants for treating them differently.

C The power conferred by clause (a) of section 14(1) of the  
Act, the counsel contends, could not be confined to factories  
purchasing sugarcane yielding low recovery inasmuch as this  
was a consideration foreign to the purpose contemplated by  
clause (a) of section 14(1) of the Act.

D The three clauses of sub-section (1) of section 14 of the  
Act have different object and purpose. The purpose of granting  
the power of remission under clause (a) is "encouragement and  
regulation" of the supply of sugarcane, the object of clause  
(b) is to encourage the establishment of new factories, and  
that of clause (c) is to assist factories established after  
the crushing season 1957-58 and purchasing sugarcane yielding  
low recovery. Section 14(1) confers a discretionary power on  
the State Government. Reading section 14 as a whole, it cannot  
E be said that it was obligatory on the part of the State to  
grant exemption or remission to all the factories. The  
discretion has been left to the State Government to decide  
whether any particular factory should be granted remission or  
not guided by the purpose set out in the relevant clause.  
Neither in clause (a) nor in any other clause of section 14(1)  
F of the Act, there is anything to indicate that the State  
Government must grant remission to all sugar factories for  
encouraging or regulating the supply of sugarcane.

G The reason is obvious. It may be that a factory situated  
in one area or falling in one category is in need of this  
remission while those which are not either situated in that  
area or do not fall in that category may not need it. It is  
true that the power conferred by clause (a) is to be exercised  
for the purpose of encouraging and regulating the supply of  
sugarcane but in exercising this power, the State Government  
may legitimately take the view that this purpose necessitates  
H the grant of remission only to the sugar factories purchasing

sugarcane yielding low recovery. By granting the remission only to sugar factories purchasing sugarcane of low recovery, the State Government in our opinion has not violated Article 14 of the Constitution. Nor is there any contravention of the provisions of clause (a) of section 14. The question of contravention would arise if the grant of remission were founded on a ground extraneous to the provisions of section 14. The Notifications issued by the State Government clearly show that the remission was granted with the sole object of encouraging and regulating the supply of sugarcane to these factories. The exercise of the power by the State Government was in accordance with the provisions of clause (a), sub-section (1) of section 14 and that by granting the remission to a few sugar factories it did not frustrate the purpose of the aforesaid provision. The use of expression "encourage or regulate" clearly indicates that the factories which really need encouragement or regulation should get the benefit of the remission under clause (a) of sub-section (1) of section 14. The word "encourage" suggests that the State Government is required to exercise the power where it feels that the sugar factory requires the help for the purpose of making purchases of sugarcane. Similarly, the word "regulate" also shows that the said power can be exercised with a view to take measures to promote the sale of sugarcane. If the power conferred by clause (a) of sub-section (1) of section 14 has been exercised for the purpose of granting remission to only those sugar factories which purchase sugarcane of low recovery, there is nothing wrong in so doing.

It was next contended by Dr. Chitale that the factories which had recovery of 8.5 or less had been granted the remission. Some of the appellants were also in similar position and they have been refused unjustifiably and the State Government had discriminated between the factories falling in the same group and thus the Notification issued on January 25, 1975 suffered from the vice of Article 14 of the Constitution on that account also. This argument loses sight of the other clauses of the section, viz, clauses (b) and (c) of sub-section (1) of section 14. Clause (b) provides for encouraging the establishment of new factories and clause (c) contemplates assistance to factories established after crushing season 1957-58 and purchasing sugarcane yielding low sugar recovery. If the State Government had chosen to give

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remission to these factories because they fall under clause (c), some argument could have been advanced against the validity of the Notification on that basis. Under clause (c), remission is granted by way of support or aid to newly established factories to lesson the cost so that they could profitably compete in the market. The remission under clause B (c) has to be confined to new factories which is a different category of sugar factories. The considerations needed for exercising the power under clause (c) are different from those under clause (a) or (b). Considered from this aspect there is no discrimination at all.

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Article 14 of the Constitution forbids class legislation but permits reasonable classification. It however must fulfil the twin requirements: (1) it must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group, and (2) that the intelligible differentia must have a relationship to the object sought to be achieved by the Statute. If authority be needed, we may refer to **Anant Mills Co. Ltd. v. State of Gujarat & Ors.**, [1975] 3 S.C.R. 220. D

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The remission was granted only to the factories where the recovery from the sugarcane was low to enable the factories to make timely payments towards the cost of sugarcane and non-payment of the cane prices affecting the supply of cane to factories. It was in these circumstances that the Government granted remission to the factories which needed the help.

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The immediate factor affecting the economy is the recovery of sugar from sugarcane and the sugar content in the cane produced goes a long way to determine the cost of sugar. Thus the sugar factories which were purchasing sugarcane yielding low recovery are distinguishable as a class separately from those which did not fall in it and there was a reasonable basis to classify those left out of that group.

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For the foregoing discussion, the appeals must fail. They are accordingly dismissed. In the circumstances of the case, however, the parties shall bear their own costs.

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All matters pending in this Court challenging the constitutional validity of the two Notifications dated January 25, 1975, will stand disposed of in terms of this judgment.