

STATE OF ORISSA v. ASWINI KUMAR DASH

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- a purchase agreement, pointed out that such an agreement has two elements: (1) element of bailment, and (2) element of sale in the sense that it contemplates an eventual sale. In the absence of any element of sale in the present case, we do not see any reason for treating the agreement as "transfer" or disallowing the grant of investment allowance, when the assessee complies with the requirements of Section 32-A. Section 32-A is a beneficial provision in a taxing statute. Full effect, therefore, requires to be given to the language used in Section 32-A. As observed by this Court in *C.A. Abraham v. ITO*⁸ (AIR at p. 612) in interpreting a fiscal statute, the court cannot proceed to make good the deficiencies if there be any. The court must interpret the statute as it stands and in case of doubt, in a manner favourable to the taxpayer. In the present case, the language of Section 32-A covers leasing or finance companies which give the machinery on hire as in the present case.
- c 20. In the premises, the appeals are dismissed with costs.

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(BEFORE SUJATA V. MANOHAR AND D.P. WADHWA, JJ.)

- d STATE OF ORISSA AND ANOTHER .. Appellants;
Versus
ASWINI KUMAR DASH AND OTHERS .. Respondents.

Civil Appeals No. 8256 of 1996[†] with Nos. 8257, 1658-63 of 1998, 10750-10755 and 12985-12989 of 1996, decided on March 17, 1998

- e A. Service Law — Pay scale — Aided non-government colleges — Revised UGC pay scales — Fixing a cut-off date for entitlement to — Validity — Provision in Orissa Government resolutions dated 6-10-1989 and 6-11-1990 limiting the benefit of UGC pay scales to teachers serving in colleges which received Government concurrence and university affiliation for opening 3+ Degree Course by 1-4-1989 — Held, neither arbitrary nor unreasonable as the burden of providing grants-in-aid for the said purpose was on the Government and no college receiving concurrence after the prescribed date could claim more grants-in-aid contrary to the policy laid down by the State — Government of Orissa, Education and Youth Services Department Resolution dated 6-11-1990 para 2 & Note thereto and Resolution dated 6-10-1989 — Constitution of India, Art. 14 — Cut-off date — Arbitrariness — Fairness and reasonableness — Education — Grants-in-aid — Colleges, held, cannot claim higher grants-in-aid contrary to the policy laid down by the State — Policy decisions — Universities — Affiliated colleges
- f B. Service Law — Pay scale — Aided non-government colleges — Revised UGC scales — Orissa Government Resolutions dated 6-10-1989 and 6-11-1990 regarding entitlement to — Scope of coverage of teachers under Resolution

h ⁸ AIR 1961 SC 609 : 41 ITR 425

[†] From the Judgment and Order dated 4-11-1994 of the Orissa High Court in O.J.C. No. 4085 of 1993