Part-80-One Pager Snapshot to the Cases on "Lex not cogit impossibila (law does not compel a man to do that which he cannot possibly perform)"

CA Arpit Haldia

S.N.	Case	Held
1.	Commissioner Of Income Tax vs M/S. Cello Plast (Bom HC)	**The statue viz. Section 54EC of the Act provides for exemption from tax to long term capital gain provided the same is invested in bonds of Rural Electrification Corporation Limited or National Highway Authority of India. However, as the bonds were not available, it was impossible for the respondent-assessee to invest in them within six months of the sale of their factory building.**
2.	Cochin State Power And Light vs State Of Kerala-1965 AIR 1688, 1965 SCR (3) 187	Section 6 came into force on September 5, 1959, and the relevant period expired on December 3. 1960. In the circumstances, the giving of the requisite notice of 18 months in respect of the option of purchase on the expiry of December 2, 1960, was impossible from the very commencement of s.6. **The performance of this impossible duty must be excused in accordance with the maxim, lex non cogitate ad impossible (the law does not compel the doing of impossibilities), and sub-s(4) of s.6 must be construed as not being applicable to a case where compliance with it is impossible.**
3.	The Inter College, Through Its ... vs The State Of U.P. (All HC)	If the authorities for their own default sit tight and idle, did not bother for making the forms available to the institutions, is it permissible subsequently to the authorities to require the college and the students to adhere to the time schedule prescribed in the regulation and else face consequences. In our view the answer would be 'No' since neither the said provision can be read in such manner nor Regulations permit such interpretation. **"Lex Non Cogit ad impossibilia." The law does not compel a man to do that which he cannot possibly perform and if duty is created and party is disable to perform without any default in him and has no remedy, law will excuse**
4.	Commissioner of Customs, ICD, TKD, New Delhi *v.* J.S. Gujral 2009 taxmann.com 347 (Delhi)	The Tribunal placed reliance on the maxim *lex non cogitad impossibilia* which means that the law cannot ask a person to do the impossible. We agree with these observations and views of the Tribunal. **As per the Import Policy the importers were required to obtain the Type Approval Certificate/COP from the international accredited agency of the country of origin of the goods. In this case the cars have been imported from Japan and, therefore, it was only the Ministry of Land, Infrastructure and Transport which could have issued the Type Approval Certificate/COP. The respondents had applied to the said Ministry for the Type Approval Certificates/COPs but the Ministry had flatly refused in so many words. In such a situation the respondents could not be expected to submit the Type Approval Certificate/COP from the said agency.** We are, therefore, not inclined to interfere with the impugned order passed by the Tribunal.
5.	Sembcorp Energy India Ltd. v. State of Andhra Pradesh [2022] 142 taxmann.com 400 (Andhra Pradesh)	Petitioner contended that in so far as transmission of electricity is concerned, it is impossible to generate shipping bills, as supply from one place to another place and from one country to another country is only through transmission lines. Thus, shipping bill is a custom document and the same cannot be made applicable to show supply of electricity; which is intangible in nature. **High Court observed situation reminded them of an age old maxim *'Lex Non Cogit ad impossibilia'*, meaning that law does not compel a man to do things which he cannot possibly perform and held that petitioner was justified in not producing shipping bills to prove the quantity of energy units transmitted and that the reports of REA filed by the petitioner, could be made the basis to deal with the claim for refund of Input Tax Credit.**
6.	I.F.C.I. Ltd. v. Cannanore Spinning and Weaving Mills Ltd, AIR 2002 SC 1841	We also would like to add that whenever there is any beneficial legislation or any scheme giving certain benefit to anyone, the scheme should be interpreted so as to make its objective more effective and not in a manner which would frustrate the objective. **In the instant case, the State wanted generation of additional electricity and under the scheme, the said task had been partly taken over by the petitioner and in fact the petitioner generated electricity as long as it was in a position to do so. The scheme, being framed not only for the benefit of the State but also for the entities like the petitioner, it ought to have been interpreted in a liberal manner.'**
7.	Rolcon Engg. Co. Ltd. v. State of Gujarat [2009] 21 VST 118 (Guj.)	The benefits given to the petitioner under the tax incentive scheme for wind power generation were sought to be withdrawn on the ground that the petitioner had committed breach of clause 7(f) of the Gujarat Sales Incentive Scheme for Wind Power Generation, 1993 by not by not keeping the wind farm/windmills in operation for a continuous period of six years after commissioning them. In the said case, it was the case on behalf of the petitioner that due to cyclone in the coastal area windmills which were already installed, came to be destroyed. It was only on account of act of God that the petitioner industrial undertaking could not keep the wind-farm running for a continuous period of six years in commissioning them and therefore, it was not possible for the petitioner to comply with clause 7(f) of the Gujarat Sales Tax Incentive Scheme for Wind Power Generation, 1993. **It was held that if it appears that the performance of the formalities prescribed by a statute had been rendered impossible by circumstances over which the person interested had no control, those circumstances would be taken as a valid excuse.**
8.	State of Gujarat *v.* S.A. Himnani Distributors (P.) Ltd [2014] 43 taxmann.com 358 (Gujarat)	**Under the circumstances, when it was impossible for the dealer to comply with all the conditions stipulated for input tax credit due to act of God and it was beyond control of the respondent-dealer to fulfil conditions for availment of the input tax credit due to the act of God - in the present case, the flood, which can be said to be valid excuse for not fulfilling the conditions stipulated for availing input tax credit on the goods destroyed in flood** and therefore, interpreting the provisions for availing input tax credit, it is hereby held that the dealer shall be entitled to input tax credit on the goods destroyed in flood. However, subject to rider that if such dealer is compensated by the Insurance Company with respect to loss sustained i.e. with respect to the goods destroyed, the same can be given credit, meaning thereby, to that extent the respondent - dealer shall not be entitled to input tax credit, otherwise, it will be giving a double benefit to the respondent - dealer.