contributions could be levied and there are decisions of some Courts which support him. It is only because of the decision of this Court given in *Kapur Bhimber Union's* case that Mr. Sarhadi in the course of arguments has abandoned the claim in respect of the amount paid on account of the pre-discovery period. It was for the first time on 14th August, 1962, that damages were levied and it is to be borne in mind that this was when the amount on account of contributions had actually been paid. It is argued by Mr. Sarhadi that no damages could have been levied in respect of non-payment of a sum which had already been paid. It is urged by Mr. Sarhadi that the failure to pay contributions must be wilful and deliberate before damages could be levied under section 14-B. The company though under protest made the payment within the period specified in the notice demanding payment of contributions. It is worthy of note that the petitioner was given some concession in making the payment for the contributions in respect of the pre-discovery period. In the circumstances, it seems to me that the levy of damages is unlawful and unjustifiable.

I would accordingly allow this petition to the extent that the sum of Rs. 401.20 demanded from the petitioner as damages will not be recovered. The demand of damages, for December, 1961 and January, 1962, which is yet to be made, will consequently not be pressed. As the petitioner has only partially succeeded, there would be no order as to costs of this petition.

R. N. M.

INCOME TAX REFERENCE

Before A. N. Grover and Prem Chand Pandit, JJ.

THE ORIENTAL CARPET MANUFACTURES (INDIA) PRIVATE LTD.—*Petitioner*

versus

THE COMMISSIONER OF WEALTH TAX, PUNJAB,—*Respondent.*

Income Tax Reference No. 6 of 1963.

March 28, 1967

Wealth Tax Act (XXVII of 1957)—S. 45(d)—Company established in 1924 starting new section in August, 1955—Whether entitled to five years tax holiday—Interpretation of Statutes—Words of statute clear—Whether must be given effect to—Report of Select Committee and debates in Parliament—Whether can be referred to ascertain the intention of the legislature.

Held, that the expansion of business by an existing company is specially dealt with in section 5 (1) (xxi) and not in section 45(d) of the Wealth Tax Act, 1957. Undoubtedly the industrial undertaking in the instant case comes within the meaning of the explanation to clause (d) of section 45. The company had set up a new and separate Unit by way of substantial expansion of its undertaking. Thus it would be seen that the assessee-company could have claimed the exemption under section 5(1) (xxi) if the Unit had been set up after the commencement of the Act. The Unit in the instant case having been established in 1955, the assessee-company could not derive any benefit from the provisions of this section. According to section 45(d), the provisions of the Act would not apply to any *Company established* with the object of carrying on an industrial undertaking. In this case no company was formed and registered in respect of the new Unit but the company had merely expanded its business by setting up a new Unit. The 'setting up a new business' by an already existing company can, under no circumstances, be equated with 'the establishment of a company.' Section 45(d), therefore, also is not applicable in the case of the assessee-company. It is true that if a new company had been established with the object of carrying on an industrial undertaking, it would have been granted exemption for a period of five successive assessment-years from the date of its establishment which might have been even before the commencement of the Act.

Held, that if the words of the statute are quite clear and are not capable of any other interpretation, the Courts are bound to give effect to them and cannot refer to the Select Committee Report or to the debates in the Parliament in order to find out the intention of the legislature.

Petition under section 27(1) *of the Wealth Tax Act,* 1957, *praying that the following question of law arises and is hereby referred for the opinion of their Lordships:—*

> *"Whether on the facts and in the circumstances of the case the assessee company which was established in* 1924 *was entitled to five years' tax holiday provided in section* 45 *(d) of the Wealth-tax Act,* 1957, *in respect of the new section started by it in August,* 1955 *for the manufacture of Worsted Wool Yarn* ?"

J. N. KAUSHAL AND B. S. CHAWLA, ADVOCATES, for the Petitioner.

D. N. AWASTHY AND B. S. GUPTA, ADVOCATES, for the Respondent.

JUDGMENT

PANDIT, J.—The following question of law has been referred to this Court by the Appellate Tribunal under section 27(1) of the Wealth-Tax Act, 1957 (hereinafter called the Act):—

> "Whether on the facts and in the circumstances of the case the assessee company which was established in 1924 was

> entitled to five years' tax holiday provided in Section 45(d) of the Wealth-tax Act, 1957 in respect of the new Section started by it in August, 1955 for the manufacture of Worsted Wool Yarn ?"

It has arisen in these circumstances. M/s. Oriental Carpet Manufactures (India) Private Limited (hereinafter referred to as the Company) is a private limited company which was established in 1924, for the manufacture of carpets. In August, 1955, this Company expanded its business and put up a new Unit for the manufacture of worsted wool yarn and invested a capital of Rs. 8,55,725 therein. With regard to the assessment years 1957-58 and 1958-59, the assessee Company claimed before the Wealth Tax Officer that so far as the new Unit was concerned, they were entitled to the exemption which was granted to the new companies under section 45(d) of the Act. Their case was that the new Unit established by them should be interpreted as a Company for the purpose of this section. This contention was repelled by the said Officer on the ground that the word 'company' had been defined in section 2(h) of the Act which meant a company as defined in section 3 of the Companies Act. 1956. By no stretch of imagination could, therefore, according to the Wealth Tax Officer, a separate Unit be interpreted as a 'company'. The assessee's case for exemption in respect of the separate Unit could, according to him, be considered under section 5(1)(xxi) of the Act, but that sub-section was also not applicable, because the separate Unit was set up before the commencement of the Act on 1st April, 1957. When the matter went before the Appellate Assistant Commissioner, the argument raised by the assessee-company was that the word 'established' in section 45(d) should be taken to mean the 'setting up of the business'. He rejected this argument by saying that if the legislature intended to give this meaning to the word 'established', it could have easily used the words 'business set up' in place of 'company established' in this section. Section 5(1) (xxi) was also held to be inapplicable, because according to this section, the exemption was applicable only to cases of companies which had set up the new Units after the commencement of the Act in 1957. The exemption claimed, therefore, according to the Appellate Assistant Commissioner, was rightly refused by the Wealth-Tax Officer. On appeal to the Appellate Tribunal,—*vide* its order, dated 16th October, 1961 it came to the conclusion that section 45 was intended to exclude the new companies from the class of taxable persons and as the assessee-company was an

old company, this section did not apply. The proper section to be applied in this case, according to the Tribunal, was section 5(1)(xxi) which envisaged the expansion of industries by the old companies. But even the benefit of this section was not available to the assessee-company, because the expansion took place prior to the commencement of the Act. The assessee was, therefore, not entitled to the exemption claimed. Thereafter, the assessee moved the Tribunal for referring certain questions of law which, according to them, arose out of the Tribunal's order, dated 16th October, 1961. As a result, the Tribunal referred only the above-mentioned question of law to this Court for decision.

It has been found that the Company was established in 1924 and was still doing its business. It expanded its business in August, 1955, when a new worsted wool yarn section was established. Learned Council submitted that under the provisions of section 45(d), the new Unit was entitled to the Five Years Tax Holiday. 'Setting up a new Unit' would, according to him, be covered by the word 'established' in this section. The argument of the learned counsel was that if an altogether new concern was formed and set up to carry on the industrial undertaking, the benefit would be given to it, but the same benefit would be refused to an old company if it undertook the same business by further expanding the previous one. This, according to the learned counsel, could not be the intention of the legislature. He submitted that the Bill, which later on became the Wealth Tax Act, as originally introduced in the Parliament did not contain sections 45(e) and 5(1)(xxi). These provisions were later on added by the Select Committee. He read from the report of that Committee in order to show that their intention was that similar exemption should be given to the new concerns as well as the old companies who expanded their business by setting up new Units with the object of carrying on an industrial undertaking. He, however, conceded that the assessee company could not derive any benefit from the provisions of section 5(1)(xxi), because the Unit had been established prior to the commencement of the Act.

Sections 5(1)(xxi) and 45(d) read as under:—

"5.(1) Wealth-tax shall not be payable by an assessee in respect of the following assets, and such assets shall not be included in the net wealth of the assessee

(i) * * * * *

(xxi) that portion of the net wealth of a company established with the object of carrying on an industrial undertaking in India within the meaning of the Explanation to clause (d) of section 45, as is employed by it in a new and separate unit set up after the commencement of this Act by way of substantial expansion of its undertakings:

Provided that—

(a) separate accounts are maintained in respect of such unit; and

(b) the conditions specified in clause (d) of section 45 are complied with in relation to the establishment of such unit:

Provided further that this exemption shall apply to any such company only for a period of five successive assessment years commencing with the assessment year next following the date on which the company commences operations for the establishment of such unit."

"45. The provisions of this Act shall not apply to—

(a) * * * *

(d) any company established with the object of carrying on an industrial undertaking in India in any case where the company is not formed by splitting up, or the reconstruction of a business already in existence or by the transfer to a new business of any building, machinery or plant used in a business which was being previously carried on:

Provided that the exemption granted by clause (d) shall apply to any such company as is referred to therein only for a period of five successive assessment years commencing with the assessment year next following the date on which the company is established, which period shall, in the case of a company established before the commencement of this Act, be computed in accordance with this Act from the date of its establishment as if

this Act had been in force on and from the date of its establishment;

Explanation.—For the purposes of clause (d), "industrial undertaking" means an undertaking engaged in the manufacture, production or processing of goods or articles or in mining or in generation or distribution of electricity or any other form of power;"

A plain reading of these sections would show that the expansion of business by an existing company is specifically dealt with in section 5(1)(xxi) and not in section 45(d). Undoubtedly, the industrial undertaking in the instant case comes within the meaning of the explanation to clause (d) of section 45. The company had set up a new and separate Unit by way of substantial expansion of its undertaking. Thus, it would be seen that the assessee-company could have claimed the exemption under section 5(1)(xxi) if the Unit had been set up after the commencement of the Act. The Unit in the instant case having been established in 1955, the assessee-company could not derive any benefit from the provisions of this section. According to section 45(d), the provisions of the Act would not apply to any *company established* with the object of carrying on an industrial undertaking. Can it be said that in the present case any company was established when this new Unit was formed ? Indisputably no company was formed and registered in this case in respect of the new Unit. As already said, the company had merely expanded its business by setting up a new Unit. The 'setting up of a new business' by an already existing company can, under no circumstances, be equated with the 'establishment of a company.' Section 45(d), therefore, also is not applicable in the case of the assessee-company. It is true that if a new company had been established with the object of carrying on an industrial undertaking, it would have been granted exemption for a period of five successive assessment-years from the date of its establishment which might have been even before the commencement of the Act, but if an old company had expanded its business by setting up a unit for carrying on the same industrial undertaking, it would not be entitled to any exemption if the unit had been established before the commencement of the Act. Be that as it may, if the words of the statute are quite clear and are not capable of any other interpretation, the courts are bound to give effect to them. We cannot refer to the Select Committee Report or to the debates in the Parliament in order to find out the intention of the legislature, as was suggested by the counsel for the assessee-company, when it is quite clear

from the statute itself. It was held by the Supreme Court in *Thakur Amar Singhji and others* v. *State of Rajasthan and others* (1), that recourse to rules of construction would be necessary only when a statute is capable of two interpretations, but where the language was clear and the meaning plain, effect must be given to it.

In view of what I have said above, the answer to the question of law referred to us for decision would be in the negative. There will be no order as to costs.

A. N. Grover, J.—I agree.

B.R.T.

CIVIL MISCELLANEOUS

Before Shamsher Bahadur, J.

GURBAKHSH SINGH,—*Petitioner*

versus

THE DEPUTY COMMISSIONER, AMRITSAR,—*Respondent.*

Civil Writ No. 1427 of 1966.

March 28, 1967

Punjab Land Revenue Act (XVII of 1887)—Ss. 3(8) and 75—Lambardar collecting land revenue and failing to pay it to the Government—Whether a "defaulter"—Recovery proceedings under Chapter IV of the Act—Whether can be taken against him—S. 75—Whether ultra vires *the Constitution.*

Held, that a Lambardar as headman of the village is responsible for collection of land revenue and deposit it with the Government. If he fails to deposit the same, he is a "defaulter" under section 3(8) of The Punjab Land Revenue Act. The provisions of Chapter IV of the Act dealing with recoveries are concerned not only with landowners but a headman or Lambardar as well, so far as they

(1) A.I.R. 1955 S.C. 504.