IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.317 OF 2019

Delta Corp Limited
and another ...Petitioners

Versus

U.T. Administration of Daman
and Diu, through the Department
of Tourism and others …Respondents

Mr. Janak Dwarkadas, Senior Counsel a/w. Nikhil Sakhardande, Senior Counsel, Cyrus Ardeshir, Senior Counsel, Rohan Rajadhyaksha, Nooruddin Dhilla (Through VC), Rajendra Barot, Ms. Anusha Jacob, Ms. Deepti Prabhu and Himanshu Kalwani i/b. AZB Partners for the Petitioners.

Mr. Anil Anturkar, Senior Counsel a/w. Dr. Sanjay Jain, Aayush Kedia, Jugal Haria, Ms. Kashish Chelani, Atharva Date, Harshavardhan Suryawanshi, Deepam Upadhyay, for the Respondents.

CORAM : SARANG V. KOTWAL &
SANDESH D. PATIL, JJ.

RESERVED ON : 08th APRIL, 2026
PRONOUNCED ON : 29th APRIL, 2026

JUDGMENT: [Per Sarang V. Kotwal, J.]

1. We have heard Mr. Janak Dwarkadas, learned Senior Counsel for the Petitioners and Mr. Anil Anturkar, learned Senior Counsel for the Respondents.

2. The Petitioner No.1 owns and operates a five star hotel called ‘The Deltin’ at Varkund, Nani-Daman. The Petitioner No.2 is

the Director of the Petitioner No.1. The Respondent No.1 is the Administration of Union Territory of Daman and Diu (hereinafter referred to as 'UT of Daman and Diu') through the Department of Tourism. The Respondent No.2 is the Administrator of the UT of Daman and Diu appointed by the President of India under Article 239 of the Constitution of India. The Respondent No.3 is the Director (Tourism), UT of Daman and Diu.

3. The main prayer in this Petition is for issuance of writ of mandamus directing the Respondent Nos.1 to 3 to issue a license to the Petitioner No.1 to install games of electronic amusement/slot machines at 'The Deltin Hotel'. The other necessary connected prayers are for setting aside the letters dated 31.8.2018 addressed by the Respondent No.1 to the Ministry of Home Affairs [MHA], Government of India and addressed by the Respondent No.1 to the Petitioner No.1 in effect refusing to grant license. There are other amended prayers for the following declarations:

i. To declare that the Goa Public Gambling (Amendment) Act, 1992 is in force in UT of Daman and Diu;

ii. The withdrawal notification dated 28.4.2014 is not applicable to the Petitioner No.1's application dated

13.3.2014;

iii. And in the alternative, the withdrawal notification dated 28.4.2024 be declared as *ultra vires*, unconstitutional, illegal, null and void.

4. The brief facts, as set out in the Petition, are as follows:

On 30.7.1976, the Goa, Daman and Diu Public Gambling Act, 1976 came into force. It was an Act to provide for punishment for public gambling, for keeping common gaming houses and gaming in common gaming houses in the Union Territory of Goa, Daman and Diu. It was enacted by the Legislative Assembly of Goa, Daman and Diu and extended to the whole of the Union Territory of Goa, Daman and Diu. Goa was a Union Territory at that point of time. The Act prohibited certain activities with respect to "gaming" as defined in the Act. The punishment was provided for keeping common gaming house. There were other provisions giving power regarding entry and search to the police etc.. The offences under the Act were made cognizable.

5. There was no provision or concession for keeping slot machines or games or electronic amusement games which could be used for the prohibited activities under the Act.

6. In the year 1987, The Goa, Daman and Diu Reorganization Act, 1987 was brought into force from 26.5.1987. From that day, the State of Goa became separate and Daman and Diu continued to be a Union Territory; thus becoming separate from the State of Goa. Section 63 of the said Act provided for applicability of the laws which were in force on that day also to Daman and Diu.

7. On 24.8.1992, the Goa Public Gambling (Amendment) Act, 1992 (Act No.2 of 1992) (for short, '1992 Goa Amendment Act') was brought into force. Section 13A was introduced in the original Act of 1976. Section 13A reads thus :

> "**13A. Authorised Game :-** (1) Notwithstanding anything contained in this Act, the Government may authorise any game of electronic amusement/slot machines in Five Star Hotels subject to such conditions, including payment of such recurring and non-recurring fees, as may be prescribed.
>
> (2) The provisions of this Act shall not apply to any game authorised under sub-section (1)."

8. The applicability of this particular provision to UT of Daman and Diu is seriously disputed by both the parties in this case. According to the Petitioners by virtue of the said provision,

the Petitioners were entitled to install electronic amusement/slot machines and then the prohibition under the Original Act would not apply. On the other hand, it is the case of the Respondents that the said provision was never brought in force as far as the UT of Daman and Diu is concerned.

9. According to the Petitioners, the 1992 Goa Amendment Act was made applicable to UT of Daman and Diu from 1.7.1998 vide a notification. According to the Petitioners, therefore, Section 13A referred to hereinabove was made applicable to UT of Daman and Diu authorizing the Respondent No.2 to grant licenses for installation of electronic amusement/slot machines in five star hotels subject to such conditions as may be specified.

10. It is case of the Petitioners that on 24.7.2007, the Petitioner No.1 addressed a letter to the Respondent No.2 stating that the Petitioner No.1 intended to set up a five star hotel in Daman along with games of electronic amusement/slot machines within the said five star hotel as Section 13A was extended to the UT of Daman and Diu. According to the Petitioners, the construction of a five star hotel was neither commercially viable nor profitable in the UT of Daman and Diu without setting up of

electronic amusement/slot machines along with the five star hotel.

11. In response, the Respondent No.1 addressed a letter dated 12.10.2007 to the Petitioner No.1. It was stated in the letter that the Petitioner No.1's request for granting license for operating games of electronic amusement/slot machines was examined and it was found that such activity was permissible under the 1992 Goa Amendment Act which extended to UT of Daman and Diu. It was further mentioned that, in that view, the Union Territory had no objection to grant of license for operating games of electronic amusement/slot machines at Daman in the five star hotel premises. It was further mentioned that the Petitioner No.1 would be granted license only after the construction of a five star hotel duly sanctioned by the competent local authority and approved by the Ministry of Tourism subject to the Petitioner No.1 fulfilling the relevant conditions under the 1992 Goa Amendment Act. It was specifically mentioned that the Petitioner No.1 was required to complete all the formalities as mentioned in the letter and in the Act within three years from the date of issuance of such a letter.

12. Certain arguments were advanced from both sides with reference to this letter. Learned Senior Counsel for the Petitioners

highlighted that the letter mentions that the Union Territory Administration had no objection for grant of such license; whereas the learned Senior Counsel for the Respondents highlighted that the Petitioner No.1 was required to complete the formalities within three years from the date of the letter i.e. from 12.10.2007.

13. On 5.2.2008, the Union Territory Administration of Daman and Diu, through the Department of Tourism published a notification. It refers to the procedure and forms for application for obtaining license for operating games of electronic amusement/slot machines in a five star hotel. The preamble of the notification mentions that the Administration of UT of Daman and Diu was pleased to authorize games of electronic amusement/slot machines subject to the terms and conditions mentioned in the notification, in exercise of the powers conferred by Section 13A of the Goa, Daman and Diu Public Gambling Act, 1976 as in force in the UT of Daman and Diu.

14. Strong arguments were advanced from both sides in respect of the notification of 2008. The main contention of the Petitioners is that the publication of this notification of 2008 itself mentions that the aforementioned Section 13A was in force in the

UT of Daman and Diu. This was mentioned in the preamble of the 2008 notification.

15. On the other hand, the contention of the Respondents is that though this notification was published, it had no legal basis because Section 13A of the Goa, Daman and Diu Public Gambling Act , 1976 was not in force as the 1992 Goa Amendment Act was not notified or published as far as the UT of Daman and Diu are concerned.

16. At this stage it is necessary to mention that the said notification of 2008 dated 5.2.2008 was specifically withdrawn vide the notification dated 28.4.2014 issued by the UT Administration of Daman and Diu through the Department of Tourism. It was published on 2.5.2014.

One of the prayers in the Petition is for declaration that this notification dated 28.4.2014 be declared as ultra vires, unconstitutional, illegal, null and void, and not applicable to the Petitioners' application for seeking licenses for those machines.

17. To continue with the chronology of events, the next important date is 14.3.2014. The Petitioner No.1 Company addressed a letter dated 14.3.2014 to the Respondent No.3 for

applying for grant of license for installation of games of electronic amusement/slot machines from the Respondent No.3 in 'Form A' pursuant to the in-principle NOC granted through the aforementioned letter dated 12.10.2007 issued by the Respondent No.3. The Petitioner No.1 made an application for license for installing 140 games of electronic amusement/slot machines. It was mentioned in the said application/letter that they were paying license fees as required under the notification of 2008.

18. It is the case of the Petitioners that before making the said application dated 14.3.2014 for license for installing 140 machines, the Petitioner No.1 had constructed 'The Deltin Hotel' in or around June, 2010. They had raised money through loans, corporate deposits etc.. The total investment was more than Rs.450/- Crores. The Petition refers to various permissions obtained by the Petitioner by that period.

19. In March, 2014 the Petitioner No.1 commenced the operations of 'The Deltin Hotel' but no action was forthcoming from the Respondent No.3 on the application made by the Petitioners for grant of license for installation of these games. The Petition then refers to various correspondence, letters, reminders

sent by the Petitioners upto 2018.

20. The Petitioners entered into the correspondence also with the Ministry of Home Affairs, Government of India.

21. The Ministry of Home Affairs, Government of India vide their letter dated 15.10.2018 informed the Petitioners that the subject of grant of license for installation of those machines in the Deltin Hotel came under the jurisdiction of the UT Administration of Daman and Diu and for that purpose the UT Administration may be approached.

22. On the other hand, vide letter dated 31.8.2018 issued by the UT Administration of Daman and Diu through the Department of Tourism, the Petitioner No.1 was informed that the competent authority of the UT Administration of Daman and Diu had decided to reject all applications for grant of licence for installation and operation of Casinos at Daman and that any further applications for operation of Casinos in the UT of Daman and Diu would be accepted only after taking due approvals from the Ministry of Home Affairs. Thus, finally the Petitioners' application for grant of license for installation of those machines was refused.

23. In this background, the Petitioners have approached this Court for the aforementioned reliefs.

24. In response to the Petition, the Respondents filed their affidavit-in-reply and certain other documents were annexed to the affidavit-in-reply. These letters and their brief description are as follows :

i) The letter dated 24.7.2007 sent by the Petitioner No.1 to the Respondent No.2 for getting permission and license for casino within the five star luxury hotel at Daman;

ii) The Respondent No.3 addressed a letter dated 14.8.2007 to the MHA referring to the application for license to install those machines. The letter was signed by the Assistant Director of Tourism. This letter mentions that it was issued with the approval of the Administrator. Vide that letter, information and advise was sought from the MHA as the electronic amusement / slot machines were to be opened up for the first time in that territory and grant of license was a policy decision.

iii) The MHA, vide letter dated 16.8.2007, addressed a letter to the Administrator with a copy to the Assistant Director of Tourism. It was mentioned that, as per Section 13A of the Goa,

Daman and Diu Public Gambling Act, 1976, as extended to the UT of Daman and Diu, the requisite power to grant permission/license was vested in the Administrator and, therefore, the matter was to be decided by the UT Administration keeping in view the local conditions as per the provisions of the said Act.

iv) The Respondent No.3, vide letter dated 12.10.2007, informed the Petitioner about their no objection. The said letter is already referred to hereinabove.

v) The letter dated 13.6.2013 was sent by the then Administrator addressed to MHA. The said letter mentions that the 1992 Goa Amendment Act was extended to UT of Daman and Diu vide notification dated 1.7.1998 but Section 1(2) of the said Act mentions that it was to come into force on such date as the Central Government by notification in the Official Gazette was to appoint. It was further mentioned that the Central Government had not notified such date. It was further mentioned that the UT Administration was not in favour of coming into force of the 1992 Goa Amendment Act as extended to UT of Daman and Diu as insertion of Section 13A in the Original Act would permit licensing of games of electronic amusement/slot machines (i.e. Casinos) in

the five star hotel in the verdant UT of Daman and Diu and that the Administration was of the opinion that the UT was a place blessed with nature and its culture would be irreparably damaged even if a single casino came into operation. It was further mentioned that the then UT Administration had issued a no objection certificate on the erroneous interpretation of the extant law and it was prayed that the 1992 Goa Amendment as extended to the UT of Daman and Diu be repealed.

vi) The letter dated 6.8.2013 issued by the MHA, Government of India addressed to the Administrator of UT of Daman and Diu is an important letter. It was accepted that no date was notified by the Central Government to bring in force the amendment extending to UT of Daman and Diu as per the 1992 Goa Amendment Act and, therefore, all actions taken by the UT Administration on the presumption that Section 13A was in force was *ultra virus ab initio*.

25. After that the notification dated 5.2.2008 was withdrawn vide the notification dated 28.4.2014, as mentioned earlier.

26. There are other letters as well. They will be referred to

if found necessary in the following discussion.

27. It is the case of the Respondents UT of Daman and Diu that the Petitioners' request for grant of license for installation of those machines was based on the NOC issued on 12.10.2007. The said NOC itself mentions that the stipulated period for completing all the requirements was three years from the date of issuance of NOC. But after the said period of three years was over, the request for granting license cannot be granted. The amendment made by Goa in the year 1992 was extended to UT of Daman and Diu with certain modifications but the date for bringing these modifications in force was not notified and, therefore the UT Administration was not authorized to allow the operations of casino/electronic amusement/slot machines in the Union Territory. According to the Respondents, the prayers in this Petition cannot be granted. The decision taken by the UT Administration not to grant license is a policy decision taken after consultation with all the stakeholders, Members of the Parliament and the local representatives.

28. The Petitioners filed their rejoinder, inter alia, reiterating their main grounds. According to the Petitioners, relying on the NOC given by the Respondent No.1, the Petitioners

commenced the construction of 'The Deltin Hotel' at significant costs of approximately Rs.450 Crores and completed the construction in June, 2010. Vide letter dated 31.8.2018 addressed by the Respondent No.1 to the Petitioner No.1 it was stated that the competent authority of the Respondent No.1 had decided to reject all applications made for grant of license under Section 13A of the Principal Act. Therefore, by exercising its power and rejecting all applications that were made for grant of license, the Respondent No.1 had in fact exercised its power under Section 13A of the Principal Act, which means that the Respondents and the MHA had all along accepted that the 1992 Goa Amendment Act had been brought into force in the UT of Daman and Diu.

29. The Petitioners have further mentioned in the rejoinder that the conduct of the Respondents led the Petitioners to expend more than Rs.450/- Crores towards construction of a five star hotel and the Respondents cannot be permitted to arbitrarily resile from their earlier representations causing grave loss and serious prejudice to the Petitioners. The well established principles of promissory estoppel and legitimate expectation apply to the Respondents. The NOC given by the Respondents mention that the

Petitioners would be granted license only after construction of the five star hotel duly sanctioned by the local authority and approved by the Ministry of Tourism and subject to the Petitioners fulfilling all the relevant conditions mentioned in the 1992 Goa Amendment Act and the Rules framed thereunder. Therefore, the Petitioners contended that the hotel was completed in the year 2009 which was well within the three years period specified in the no objection letter; and the occupancy certificate was issued to the Petitioner No.1 on 29.6.2009. Thus, the Petitioner No.1 had acted diligently.

Submissions of Shri Janak Dwarkadas, learned Senior Counsel for the Petitioners :

i. Shri Dwarkadas submitted that, by the 1998 notification, the 1992 Goa Amendment Act was extended to the UT of Daman and Diu. Thereafter in July 2007, the Petitioner No.1 submitted a proposal for setting up electronic amusement/slot machines in their five star hotel. On 14.8.2007, the Respondents addressed a letter stating that the Administrator intended to consider the request subject to grant of final license under Section 13A of the Act. Vide letter dated 16.8.2007, the MHA addressed a letter to the Respondents mentioning that the requisite power to grant

permission/license was vested in the Administrator. Therefore, the MHA and the Respondents have clearly accepted that the 1992 Goa Amendment Act had been brought into force in the UT of Daman and Diu. The notification dated 5.2.2008 specifying Rules for making application for license for such machines mentions that the Administrator of UT Daman and Diu was pleased to authorize games of electronic amusement/slot machines in exercise of the powers conferred by Section 13A of the Principal Act as in force in the UT of Daman and Diu. Thus, the notification itself mentions that the said Act of 1976 with inclusion of Section 13A was in force in the UT of Daman and Diu. Therefore, according to Shri Dwarkadas the Respondents cannot contend that the Principal Act was not in force or that Section 13A after the amendment was not applicable to the UT of Daman and Diu.

ii. The Petitioners spent huge sum of more than Rs.450/- Crores in constructing a five star hotel relying on the 1998 notification, the no objection letter and the 2008 notification. All the necessary approvals and licenses have been obtained

by the Petitioner No.1. Despite continuous follow up for several years between September 2014 to June, 2018 by several letters addressed by the Petitioner No.1, the said licenses were not granted to the Petitioners. The Respondent No.1 had rejected all applications under Section 13A of the Principal Act including the Petitioners' application without stating any reasons and, therefore, on this ground alone the impugned letter 1 and the impugned letter 2 deserve to be quashed and set aside.

iii. The impugned letters did not proceed on the fact that Section 13A of the Principal Act was not in force but they proceeded on the ground that the Respondent No.3 has in fact exercised jurisdiction under Section 13A of the Principal Act to reject all the applications. That means, the stand of the Respondents could not be that said the Section was not in force but the Respondents had exercised their powers under Section 13A to reject those applications.

iv. Section 3(8)(b)(iii) of the General Clauses Act lays down that the 'Central Government' in relation to the administration of Union Territory would mean the Administrator thereof acting

within the scope of the authority given to him under Article 239 of the Constitution. The 2008 notification was published in the official gazette of UT of Daman and Diu on 8.2.2008. It was issued by the Respondent No.1 by order and in the name of the Administrator of Daman and Diu. The 1992 Goa Amendment Act applicable to UT of Daman and Diu provided in Section 1(2) that it shall come into force on such date as the Central Government may, by notification in the Official Gazette, bring it into force. The conjoint reading of these two provisions meant that the 2008 notification was validly published by an order of the Administrator of Daman and Diu in exercise of Section 1(2) of the 1992 Goa Amendment Act and hence it meant that Section 13A of the Principal Act was in force in the UT of Daman and Diu. In support of this contention, Shri Dwarkadas relied on the observations of the Hon'ble Supreme Court in the following judgments :

[1] **Uttam Bala Ravankar Vs. Assistant Collector of Customs and Central Excise, Goa and Another**[1]. In this case the Hon'ble Supreme Court had applied Section 3(8) of the General Clauses Act to uphold

1 1970(2) SCC 396

a notification issued by the Lieutenant Governor of Goa and Daman and Diu (Administrator) of that UT, where the power to issue notification was exercisable by the Central Government.

[2] The same ratio was followed by the Hon'ble Supreme Court in the subsequent judgment in the case of **M/s. Punjab Tin Supply Co., Chandigarh and others Vs. Central Government and others**[2]**.**

[3] In the case of **Sushil Flour Dal & Oil Mills Vs. Chief Commissioner and others**[3], the Hon'ble Supreme Court approved the view that under Part VIII of the Constitution, the power to Administer the Union Territories vested in the President and the President could exercise that power directly or through an Administrator appointed by him. The Administrator so appointed was the medium through which the President exercised the function of administering the Union Territories. There was a reference made to Section 3(8) of the General Clauses Act.

2 (1984) 1 SCC 206
3 (2000) 10 SCC 593

v. Shri Dwarkadas further submitted that under Section 17 of the Dadra And Nagar Haveli And Daman and Diu (Merger Of Union Territories) Act, 2019, it was provided that all laws which immediately before the appointed day extended to, or were in force in existing Union Territories shall, on and from the appointed day, continued to be in force in those areas in respect of which they were in force immediately before that day.

Therefore, according to Shri Dwarkadas, the Principal Act, including Section 13A, was extended to and was in force in the UT of Daman and Diu on the appointed day, in the Merger Act, in the UT of Daman and Diu.

vi. Shri Dwarkadas also referred to Section 19 of the Merger Act. According to Shri Dwarkadas by virtue of the said Section, the Dadra and Nagar Haveli and Daman and Diu Public Gambling Act, 1976 as amended by Schedule has been adopted and given effect to in the merged Union Territories of Daman and Diu and Dadra and Nagar Haveli. There was no specific amendment/modification, substitution or

omission of words made to Section 13A in the Schedule to the Adaptation Order.

vii. The withdrawal notification dated 28.4.2014 withdrawing the 2008 notification is not mentioned in the impugned letters. Thus, the Petitioners' applications were not rejected on the ground that the 2008 notification was withdrawn.

viii. In any case, the application dated 14.3.2014 made by the Petitioners was submitted before the withdrawal notification was issued on 28.4.2014 and, therefore, the impugned withdrawal notification could not apply to the Petitioners' application. Therefore, Shri Dwarkadas relied on Section 6 of the General Clauses Act which provides for effect of repeal. According to Section 6(c) the repeal was not affecting any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed. He referred to the judgment of the Hon'ble Supreme Court in the case of **Ambalal Sarabhai Enterprises Limited Vs. Amrit Lal & Co.**[4], to support this contention.

ix. Shri Dwarkadas then referred to the principle of promissory estoppel and legitimate expectation. The Respondent No.1

4 2001(8) SCC 397

had made a categoric representation, assurance and promise that the Petitioner No.1 will be granted license under Section 13A of the Principal Act. Based on this promise, the Petitioner No.1 had incurred expenses and had satisfied all the conditions and requirements. The construction of a five star hotel was not commercially viable without setting up of electronic amusement/slot machines. The Respondents were bound by their promise. The Respondents cannot be permitted to resile from their earlier representations thereby causing grave loss and severe prejudice to the Petitioners. To base his submission on the principle of promissory estoppel and legitimate expectation Shri Dwarkadas relied on the following two main judgments :

I] **Manuelsons Hotels Private Limited Vs. State of Kerala**[5].

II] **State of Jharkhand and others Vs. Brahmputra Metallics Ltd.**[6].

x. Shri Dwarkadas contended that in Section 4A in the Principal Act applicable to Dadra and Nagar Haveli and Daman and Diu i.e. The Dadra And Nagar Haveli And Daman And Diu Public Gambling Act, 1976 which provides for prohibition of

5 (2016) 6 SCC 766
6 2020 SCC Online SC 986

any place used for the purpose of gambling has no application to the Petitioners' entitlement to a license under Section 13A of the Principal Act.

Submissions of Shri Anturkar learned Senior Counsel for the Respondents :

30. Shri Anturkar invited our attention to the timeline of the Acts which were brought in force for Goa, Daman and Diu in respect of the present subject matter. The Original Act i.e. The Goa, Daman and Diu Public Gambling Act was brought into force in the year 1976. This Act did not permit use of slot machines / electronic machines at all. Therefore, from 1976 to 1987 those machines were not allowed in Daman and Diu.

31. The second time slot was between 1987 to 1992. In the year 1987, The Goa, Daman and Diu Reorganization Act, 1987 was brought into force from 26.5.1987. From that date, the State of Goa became separate and Daman and Diu continued to be a Union Territory separate from the State of Goa. Section 63 of the Goa, Daman and Diu Reorganization Act, 1987 laid down that the laws in force in the existing Union Territories on the appointed day shall continue to remain in force. Thus, even after reorganization by

making the Goa a separate State, the 1976 Principal Act was in force in the UT of Daman and Diu and hence those machines were still not allowed.

32. On 24.8.1992, the Goa Public Gambling (Amendment) Act, 1992 was brought into force. This Act was passed only by the Goa Legislature and,therefore, it was not applicable to the UT of Daman and Diu. By this Act, Section 13A was introduced in the State of Goa. Section 1 of the Goa Public Gambling (Amendment) Act, 1992 is as follows :

> "**1. Short title and commencement.** -- (1) This Act may be called the Goa Public Gambling (Amendment) Act, 1992.
> (2) It shall come into force at once."

Thus, the said Amendment Act came into force at once from 24.8.1992, but only for State of Goa.

33. The fourth time slot was from 1.7.1998 when in exercise of the powers conferred by Section 6 of the Goa, Daman and Diu (Administration) Act, 1962, the Central Government extended to the Union Territory of Daman and Diu, the enactment specified in Column No.1 of the Schedule subject to the modifications specified in the corresponding entries in Column No.2 of the said Schedule.

34. The significant modification to the Goa Public Gambling (Amendment) Act, 1992 was that Section 1(2) was modified and it reads thus :

> "(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint"

One of the main contentions of Shri Anturkar is that this modification meant that the Goa Public Gambling (Amendment) Act, 1992 could not be made applicable to the Union Territory of Daman and Diu unless and until it was brought into force by the Central Government through a notification in the Official Gazette. This Act was never notified and hence the 1992 Amendment Act was never brought in force for UT of Daman and Diu.

35. This is a major issue of dispute between the Petitioners and the Respondents. Shri Anturkar submitted that if the Act itself is not brought into force it would mean that Section 13A which was introduced by the said Amendment Act was not brought into force and hence, those machines were still prohibited. In addition, the Schedule to the notification dated 1.7.1998 provided that for Daman and Diu, the exact words "the Government of Goa" were

substituted by the words “the administrator of the Union territory of Daman and Diu appointed by the President Under article 239 of the Constitution.”

36. In the year 2019, the Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories) Act, 2019 was passed.

37. Shri Anturkar further submitted that in the year 2022, the Dadra and Nagar Haveli and Daman and Diu Public Gambling Act, 1976 was made applicable w.e.f. 20.4.2022 during pendency of the present Petition. Very significantly Section 13A is not included in the said Act and hence even as of today, those machines are not permitted to be operated and, therefore, if the relief is granted to the Petitioners as of today, it would be in violation of the provisions of the existing law. The writ of mandamus cannot be issued against the provisions of law.

38. Shri Anturkar further submitted that since the 1992 Amendment Act was not in force in Daman and Diu. Consequently though the requirements and procedure for making application for obtaining license to run those machines, was published in the year 2008, it was without legal validity. These Rules are sought to be

made applicable to the Petitioners on the basis of the submission that the publication of these Rules by themselves would mean that the 1992 Amendment Act introducing Section 13A was in force. Shri Anturkar submitted that this would amount to a legal fiction which would be clearly beyond the scope of the judiciary. In support of this contention, Shri Anturkar relied on the observations of the Hon'ble Supreme Court in the case of **Sant Lal Gupta and others Vs. Modern Cooperative Group Housing Society Limited and others**[7]**.** It was held that it was the exclusive prerogative of the Legislature to create a legal fiction meaning thereby to enact a deeming provision for the purpose of assuming the existence of a fact which does not really exist. Creating a fiction by judicial interpretation may amount to legislation, a field exclusively within the domain of the legislature. Shri Anturkar relied on the observations of the Hon'ble Supreme Court in the case of **Viraj Impex Pvt. Ltd. Vs. Union of India and another**[8]**.** The Hon'ble Supreme Court observed that to make a law to exist it must be made known in the manner ordained by the Legislature. The requirement of publication in the Gazette serves a dual

7 (2010) 13 SCC 336

8 2026 SCC OnLine SC 101

constitutional purpose i.e. (a) it ensures accessibility and notice to those governed by the law, and (b) it ensures accountability and solemnity in the exercise of delegated legislative power. It was further held that before a law can become operative, it must be promulgated or published. The law is born only upon publication in the Official Gazette and it is from that date alone that rights may be curtailed or obligations imposed.

39. Shri Anturkar relied on other judgments taking a similar view to his submissions regarding the necessity of publication of law as summarized in **Viraj Impex Pvt. Ltd.'s** case.

40. In response to the submissions made by the Petitioners in respect of promissory estoppel, Shri Anturkar relied on the observations of the Hon'ble Supreme Court in the case of **Hero Motocorp Limited Vs. Union of India and others**[9]**.** In the said judgment the Hon'ble Supreme Court considered various other judgments and observed that there can be no estoppel against the Legislature in the exercise of its legislative functions. Only exception being that the orders can be passed to prevent fraud or manifest injustice. It was further observed that where the change of policy is in the

9 (2023) 1 SCC 386

larger public interest, the State cannot be prevented from withdrawing an incentive which it had granted through earlier notification.

41. Shri Anturkar submitted that the person who made the representation to the Petitioners had no authority to make such a representation. The Petitioners ought to have shown that, but for the representation, they would not have changed their position. The Petitioners have not shown that they had created a special building for the purpose of those machines or that they had incurred huge expenditure in purchasing those machines. The Petitioners have not shown that the area is so dedicated that it is impossible to use it for any other purpose. No such material is produced on record and, therefore, it cannot be said that the Petitioners had acted on such representation. He further submitted that as of today the use of those machines is not permitted and in fact it is an offence. And, therefore, there cannot be any estoppel against law.

42. Mr. Anturkar further submitted that Section 3(8)(b)(iii) of the General Clauses Act mentions that the Central Government shall include in relation to the administration of a Union territory,

the administrator thereof acting within the scope of the authority given to him under Article 239 of the Constitution. He submitted that this is an inclusive definition and, therefore, the Administrator is not given all the powers of the Central Government but his powers are restricted to the scope of authority given to him under Article 239 of the Constitution. He submitted that in the present case there is nothing to show that he was given specific powers under Article 239 of the Constitution to bring the 1992 Amendment Act in force as far as the UT of Daman and Diu is concerned.

43. Shri Anturkar relied on the judgment of the Hon'ble Supreme Court in the case of **K. Lakshminarayanan Vs. Union of India**[10]**.** Shri Anturkar relied on a few enactments wherein a special reference as made to the Administrator in contrast to the reference to the Central Government. He referred to the following enactments :

i] The Dadra And Nagar Haveli And Daman And Diu Tenancy Regulation, 2023.

ii] The Factories (Dadra And Nagar Haveli And Daman And Diu) Amendment Regulation, 2025.

10 (2020) 14 SCC 664

iii] The Delhi School Education Act, 1973.

iv] The Goa, Daman and Diu (Authority for Use of Eyes for Therapeutic Purposes) Act, 1981.

In all these enactments, it was specifically laid down that those Acts would come into force on such days as the Administrator in the Official Gazette appoint; whereas in the present case the Central Government had retained the power to publish the date on which the 1992 Goa Amendment Act was to be brought in force in UT of Daman and Diu.

44. Shri Anturkar, therefore, submitted that whenever the Legislature wanted a differentiation between the 'Central Government' and the 'Administrator' they have specifically used two different words i.e. 'Central Government' and 'Administrator'. In the 1992 Amendment Act the Act was to be brought into force by the Central Government. Significantly the word 'Administrator' was not used in that context.

45. Shri Anturkar referred to the submissions on behalf of the Petitioners in respect of the doctrine of legitimate expectations. He referred to the observations of a Division Bench of this Court in

the case of **Lalit Sehgal Vs. State of Goa**[11]**.** In Paragraph-30, the Division Bench observed that if there was a change in policy or in public interest, the position shall be altered by a rule or legislation. No question of legitimate expectation would arise.

46. Shri Anturkar relied on Section 22 of the General Clauses Act, which provides that the Rules under a particular Act shall not take effect till commencement of that Act. He submitted that since the 1992 Goa Amendment Act was never brought in force, the Rules, even if published, cannot take effect till the commencement of the Act for the territory of Daman and Diu. Shri Anturkar further submitted that, in any case, the promise if at all made in the year 2007, required compliance with certain requirements within a period of three years but the Petitioners have not complied with those requirements and, therefore, there was no responsibility on the then Administrator to fulfill the alleged promise after 2010.

47. Based on all these above submissions, Shri Anturkar submitted that no relief can be granted to the Petitioners in the present Petition.

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11 1996(1) Mh.L.J. 447

Rejoinder on behalf of the Petitioners :

48. In rejoinder, Shri Dwarkadas, the learned Senior Counsel for the Petitioners reiterated his stand as submitted by him during his arguments. In response to the contention that the 1992 Goa Amendment Act was not notified and hence merely publishing the Rules in 2008 would not mean that the Act was in force; Shri Dwarkadas submitted that the correspondence between the Administrator and the Central Government referred to hereinabove shows that the Central Government had confirmed that the Administrator had the requisite power to grant permission for such machines as it was vested in the Administrator and the matter was left to be decided by the UT administration. After the correspondence, a Committee was constituted to frame the Rules under Section 13A and thereafter the Rules were published in the Official Gazette on 5.2.2008. In such a case it could not be contended that the Administrator would disown the actions of the previous Administrator. In any case, the Administrator had acted within the scope under Article 239 of the Constitution.

49. Shri Dwarkadas then referred to the judgments cited by Shri Anturkar and submitted that each of these judgments was

distinguishable on the facts of this case. He further submitted that the Dadra And Nagar Haveli And Daman and Diu (Merger Of Union Territories) Act, 2019 made no material change in any law being in force as on date.

50. In response to the stand taken by Shri Anturkar and the judgments cited by him in respect of the principle of legitimate expectation and promissory estoppel, he referred to the observations of the Hon'ble Supreme Court in the case of **Monnet Ispat and Energy Limited Vs. Union of India and others**[12]**.** It was observed that for invocation of the doctrine of promissory estoppel, it is necessary for the promisee to show that by acting on the promise made to him, he altered his position. However, it is not necessary for him to prove any damage, detriment or prejudice caused to him as a result of alteration of such promise.

He submitted that in the present case, the Petitioners have definitely altered their position based on the promise made as they have completed construction of a five star hotel. The project was viable only if use of those machines was permitted. Thus, the Petitioners have altered their position based on the promise made to them and it was not necessary for the Petitioners to prove the

12 (2012) 11 SCC 1

actual damage, detriment or prejudice.

51. Shri Dwarkadas referred to the judgment of a Division Bench of this Court in the case of **M/s. JSW Steel Limited Vs. Electricity Inspector and others**[13]**.** It was held that in the concerned notification, promise was given by the State to the Petitioner. The Petitioner had aligned its position on the promise of the State. There was huge investment made by the Petitioner relying on the promise of the State and, therefore, any other interpretation by the Finance Department of the State not to give benefit to the Petitioner was held to be arbitrary and not equitable and in that case benefit was given to the Petitioner who had acted on that promise.

52. The Petitioners referred to various other judgments but the main judgments dealing with the issues are referred to hereinabove. Shri Dwarkadas further submitted that the real intention behind Section 22 of the General Clauses Act was to enable the State to make rules, bye-laws and orders before the commencement of the statute in anticipation of its coming into force. Section 22 of the General Clauses Act has no application to the present facts.

13 Decided on 02.04.2026 in Writ Petition No.12477/2015 [Division Bench, Bombay High Court]

Reasons and conclusions :

53. We have considered the submissions made by both the learned Senior Counsel. The first relevant Act is the Principal Act viz., the Goa, Daman and Diu Public Gambling Act, 1976. It provides the definition of common gaming-house, gaming and instrument of gaming. The Act provides for punishment for keeping common gaming-house and for gaming in common gaming-houses. The Act further provides for power to the police officers to enter and search the premises and the power to arrest without warrant. The saving clause was Section 13 which provides that nothing in the Act shall hold to apply to any game of mere skill wherever played. It is not the Petitioners' case that the machines which the Petitioners want to install in their five-star hotel are used to play game of mere skill. The operation of those machines are prohibited under the Principal Act.

54. The operation of the Principal Act continued for a few more years. In 1987, the State of Goa became separate from Union Territory of Daman and Diu but the laws which were in force on 26.5.1987 for Goa, Daman and Diu were made applicable to the State of Goa as well as to the Union Territory of Daman and Diu.

55. In the year 1992, the 1992 Goa Amendment Act, namely, the Goa Public Gambling (Amendment) Act, 1992 was brought into force on 24.8.1992. The Act is short, which reads thus:

> "An Act further to amend the Goa, Daman and Diu Public Gambling Act, 1976.
>
> Be it enacted by the Legislative Assembly of Goa in the Forty-Third Year or the Republic of India as follows:--
>
> **1. Short title and commencement.** -- (1) This Act may be called the Goa Public Gambling (Amendment) Act, 1992.
>
> (2) It shall come into force at once.
>
> **2. Amendment of Section 2.** -- In clause (3) of section 2 of the Goa, Daman and Diu Public Gambling Act, 1976 (Act 14 of 1976) (hereinafter referred to as the "principal Act"), for the words and figure "the Government of Goa, Daman and Diu", the words "the Government of Goa" shall be substituted.
>
> **3. Insertion of new section 13A.** -- After section 13 of the principal Act, the following shall be inserted, namely: --
>
> > "13A. Authorised Game.-- (1) Notwithstanding anything contained in this Act, the Government may authorise any game of electronic amusement/Slot machines in Five Star Hotels subject to such conditions, including payment of such recurring and non-recurring fees, as may be prescribed.
> >
> > (2) The provisions of this Act shall not apply to any game authorised under sub-section (1).".
>
> **4. Repeal and saving.** --- (1) The Goa Public Gambling

(Amendment) Ordinance, 1992 (Ordinance No. 3 of 1992) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act."

56. A copy of this 1992 Goa Amendment Act is a part of the compilation tendered by the Petitioners. The significance of this entire Act is as follows :

1. It was enacted by the Legislative Assembly of Goa;
2. It was to come into force at once i.e. on 24.8.1992;
3. By introduction of Section 13A, the Government could authorize any game of electronic amusement / slot machines for Five Star hotels on certain conditions. The provisions of the Principal Act were not to apply to any game authorized under sub-section (1).

That would mean that the Government was authorized to permit use of such electronic amusement/slot machines and prohibition or restrictions imposed by the Principal Act of 1976 were not to operate. In other words, use of those machines would not invite any prosecution.

57. The main contentions revolve around this particular Section 13A. As is clear from above, the amendment which came

into force in the year 1992 was applicable only to the State of Goa. The 1992 Goa Amendment Act was passed only by Goa Legislative Assembly and the amendment itself made a distinction between the State of Goa and the UT of Daman and Diu. Clause (3) of Section 2 of the Principal Act was amended to use the words "Government of Goa" instead of "Government of Goa, Daman and Diu".

58. There is no dispute that at least till 1998 there was no permission to operate such electronic machines or games authorized in the five star hotels for the UT of Daman and Diu. The dispute between the contentions of both the contesting parties refers to the position from the year 1998 with reference to the notification dated 1.7.1998 issued by the Ministry of Home Affairs. The said notification mentions thus.

> "In exercise of the powers conferred by Section 6 of the Goa, Daman and Diu (Administration) Act, 1962 (1 of 1962) the Central Government hereby extends to the UT of Daman and Diu, the enactments specified in column-1 of the Schedule hereto annexed subject to the modifications specified in the corresponding entries in column (2) of the said Schedule."

The notification gives the schedule and the reference to the 1992 Amendment Act. The 1992 Amendment Act, which we have referred hereinabove, was modified as per the entries in column (2) of the said Schedule. Significant modification was in sub-section (2) of Section 1; which after modification was to read as follows :

> "It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint."

The other modifications replaced the words "the Government of Goa" by the words "the Administrator of Union Territory of Daman and Diu appointed by the President under Article 239 of the Constitution".

The significance lies in the fact that while the 1992 Goa Amendment Act was brought into force at once on 24.8.1992 for the State of Goa, the 1992 Amendment Act was made extended to the UT of Daman and Diu vide the notification dated 1.7.1998 but with a significant variation that the Amendment Act was to come into force on such date as the Central Government may by notification in the official gazette appoint.

59. This particular modification is the soul of the argument advanced by Shri Anturkar. There is nothing to show that the Central Government appointed such date to bring the 1992 Goa Amendment Act into force for the UT of Daman and Diu. The position emerges that the 1992 Goa Amendment Act was never brought into force by the Central Government for UT of Daman and Diu.

60. The contention of Shri Dwarkadas was with reference to the publication in 2008 of procedure and forms for making application for getting licenses for those machines. According to him, the very fact that the said procedure in the form of Rules was published; it would mean that the 1992 Goa Amendment Act was in fact brought into force.

61. In this context, the observations of the Hon'ble Supreme Court in the case of **Viraj Impex Pvt. Ltd.** are quite important. Paragraphs-16, 17 and 18 of the said judgment are as follows :

> "16. We have given our thoughtful consideration to the rival submissions and have taken note of the relevant statutory provisions. Law, to bind, must first exist. And to exist, it must be made known in the manner ordained by the

legislature. Delegated legislation, unlike plenary legislation enacted by the Parliament, is framed in the executive chambers without open legislative debate. The requirement of publication in the Gazette, therefore, serves a dual constitutional purpose i.e. (a) it ensures accessibility and notice to those governed by the law, and (b) it ensures accountability and solemnity in the exercise of delegated legislative power. The requirement of publication in the Gazette, is therefore not an empty formality. It is an act by which an executive decision is transformed into law. It is precisely for this reason that courts have consistently insisted that strict compliance with the publication requirements is a condition precedent for the enforceability of delegated legislation.

17. The legal position in this regard stands crystallized by a long line of decisions of this Court. The true test of the effective commencement of a statutory order or subordinate legislation is whether it has been published in a manner reasonably calculated to bring it to the notice of all persons who may be affected by it, namely, through a mode which is ordinarily and generally accepted for that purpose. The aforesaid principle was referred to with approval by this Court and it was held that natural justice requires that before a law can become operative, it must be promulgated or published. It must be broadcast in some recognisable way so that all men may know what it is, or, at the very least, there must be some special Rule or Regulation or customary channel by or through which such knowledge can be acquired with exercise of due and reasonable diligence.

18. Another two-Judge Bench of this Court undertook a

> comprehensive survey of law relating to publication of subordinate legislation. The court recognised the modern reality that delegated legislation pervades almost every sphere of governance, often framed unobtrusively and without the visibility that attends Parliamentary enactments. It was, therefore, held that publication of promulgation is indispensable to enforceability of subordinate legislation. It was further held that when the parent statute prescribes a particular mode of publication, that mode must be strictly followed. The aforesaid position was reiterated, in subsequent decisions."

These observations mean that the statute viz. the 1992 Goa Amendment Act applicable to the UT of Daman and Diu provided that the said Amendment Act with modification would come into force on the date appointed by the Central Government. This mode of publication was required to be strictly followed. In the present case the fact is that no such date was appointed by the Central Government and there is no publication of such date in the Official Gazette. Therefore, we hold that the 1992 Goa Amendment Act was never brought into force as far as the UT of Daman and Diu is concerned. Consequently, Section 13A was never made applicable for UT of Daman and Diu. With the result, use of electronic amusement/slot machines remained prohibited in UT of

Daman and Diu.

62. The learned Senior Counsel for the Petitioners tried to distinguish the ratio in **Viraj Impex Pvt. Ltd.**'s case by contending that in the facts of **Viraj Impex Pvt. Ltd.,** the period between the notification being uploaded on the website and the notification to be published in the Official Gazette, the parties did not take any action pursuant to the notification but in the present case, the Administrator had taken several steps after the 1998 notification including publication of the 2008 Rules in the Official Gazette which stated that the 1992 Goa Amendment Act was in force in UT of Daman and Diu.

63. We are unable to agree with these submissions. The ratio of **Viraj Impex Pvt. Ltd.'s** case is clear enough. It lays down that if a particular mode or publication is prescribed that mode must be strictly followed. In the present case, the mode of bringing the 1992 Goa Amendment Act into force was with the Central Government. The Central Government had to appoint the date for bringing it into force. This was not done and hence the Act was never in force for UT of Daman and Diu.

64. Shri Dwarkadas, learned Senior Counsel for the

Petitioners heavily relied on the publication of the procedure which amounted to publication of Rules in the year 2008. The said notification was published on 5.2.2008. It starts with the following preamble :

> "In exercise of the powers conferred by Section 13A of the Goa, Daman & Diu Public Gambling Act, 1976 (Act 14 of 1976), as in force in the Union Territory of Daman & Diu, the Administrator of Daman & Diu is pleased to authorise games of electronic amusement/slot machines subject to the following terms and conditions:"

Shri Dwarkadas relied heavily on this preamble, which mention that such games were authorized by virtue of the powers conferred by Section 13A **as in force** in the Union Territory of Daman and Diu.(Emphasis supplied). This according to Shri Dwarkadas is a clear indication that it was an accepted fact by the Administrator that Section 13A was in force in UT of Daman and Diu. The said notification of 2008 was issued by an order and in the name of the Administrator of Daman and Diu.

65. As we have discussed hereinabove, the 1992 Goa Amendment Act and consequently Section 13A was not brought into force and, therefore, the notification dated 5.2.2008

prescribing the Rules itself is without foundation. In this context, Section 22 of the General Clauses Act, 1897 has its application. It reads thus:

> "**22. Making of rules or bye-laws and issuing of orders between passing and commencement of enactment.--** Where, by any Central Act or Regulation which is not to come into force immediately, on the passing thereof, a power is conferred to make rules or bye-laws, or to issue orders with respect to the application of the Act or Regulation, or with respect to the establishment of any Court or office or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act or Regulation, then that power may be exercised at any time after the passing of the Act or Regulation; but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act or Regulation."

66. Therefore, even under this provision, the Rules so made or issued, could not take effect till the commencement of the Act or Regulation. In the present case, since the Central Government had not notified the date on which the 1992 Goa Amendment Act was to come into force for UT of Daman and Diu, the Rules made thereunder could not have taken effect till commencement of the 1992 Goa Amendment Act for UT of Daman and Diu.

Again the contention of the Petitioners is that since the Rules were published in the year 2008 with a preamble "the Act as in force" which would mean that the Act was already in force and, therefore, the Administrator was well within his powers to issue and publish the Rules. As we have discussed earlier unless the Act was in force the Rules could not have their effect. The Rules derived their life from the parent Act which in this case was not in force.

67. There is another angle to the power to publish the notification, regarding the date of appointment of publication on which, the Amendment Act was to come into force for UT of Daman and Diu. The 1998 notification, as mentioned earlier, uses the words "the 1992 amendment shall come into force on such date as the "**Central Government**" may by notification in the Official Gazette appoint. (Emphasis supplied)

68. Shri Dwarkadas, learned Senior Counsel for the Petitioners submitted that the Central Government would include the 'Administrator' for UT of Daman and Diu as per Section 3(8)(b)(iii) of the General Clauses Act, 1897. The relevant provision is as follows:

"**3. Definitions.--** 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,--

xxxxx
xxxxx

(8) "Central Government" shall,--

(a) xxxxx

(b) in relation to anything done or to be done after the commencement of the Constitution, mean the President; and shall include,--

(i) xxxxx

(ii) xxxxx

(iii) in relation to the administration of a Union territory, the administrator thereof acting within the scope of the authority given to him under article 239 of the Constitution;"

69. Article 239 of the Constitution reads thus :

"**239. Administration of Union territories.--** (1) Save as otherwise provided by Parliament by law, every Union territory shall be administered by the President acting, to such extent as he thinks fit, through an administrator to be appointed by him with such designation as he may specify.

(2) Notwithstanding anything contained in Part VI, the President may appoint the Governor of a State as the administrator of an adjoining Union territory, and where a Governor is so appointed, he shall exercise his functions as such administrator independently of his Council of Ministers."

70. It is the contention of Shri Dwarkadas that the Administrator of UT of Daman and Diu had powers to appoint a date on which the 1992 Goa Amendment Act was to come into force for UT of Daman and Diu. He also had powers to publish the Rules under Section 13A. The very fact that the Rules in the year 2008 were published on his behalf with the preamble mentioning that the 1992 Amendment Act "as in force" would mean that the Administrator had in fact published not only the Rules but also the Act; which was well within his powers.

71. Shri Dwarkadas referred to the judgments of the Hon'ble Supreme Court in the cases of **Uttam Ravankar**, **M/s. Punjab Tin Supply Co., Chandigarh, and Sushil Flour Dal & Oil Mills** in respect of the power of the Administrator. In view of the above discussion, the ratio of these judgments would not be applicable to the facts of the present case before us.

72. Shri Anturkar on the other hand submitted that the power vested in the Administrator was not uncontrolled or equal to that of the Central Government or the President but it was restricted within the scope of the authority given to the

Administrator under Article 239 of the Constitution. The use of the words "scope of the authority given to him" in Section 3(8)(b)(iii) of the General Clauses Act limits his authority which had to be specifically conferred on him. No such authority is shown by the Petitioners and, therefore, the Administrator did not have authority to appoint a date for bringing the 1992 Goa Amendment Act into force.

73. In our opinion Shri Anturkar is right in his submission in that behalf. He has also rightly pointed out that whenever the Legislature wants to define the role of the Administrator as that of the Central Government in bringing into force a particular statute, they have used the separate specific words in different statutes. In contrast to the 1998 notification referring specifically to the Central Government with reference to the appointed date of bringing the 1992 Goa Amendment Act into force; Section 1(3) of the Dadra And Nagar Haveli And Daman And Diu Tenancy Regulation, 2023 refers to the Administrator. Said Section reads thus :

> "1(3) It shall come into force on such date as the **Administrator** may, by notification in the Official Gazette, appoint and different dates may be appointed for different

provisions of this Regulation and any reference in any such provision to the commencement of this Regulation shall be construed as a reference to the coming into force of that provision." (Emphasis supplied)

. Same is the case with the Delhi School Education Act, 1973. Section 1(3) thereof reads thus:

"1. Short title, extent and commencement. --

(1) xxxxx

(2) xxxxx

(3) It shall come into force on such date as the **Administrator** may, by notification, appoint and different dates may be appointed for different provisions of this Act and any reference to the commencement of this Act in relation to any provision thereof shall be construed as a reference to the date on which that provision comes into force." (Emphasis supplied)

. The Goa, Daman and Diu (Authority for Use of Eyes for Therapeutic Purposes) Act, 1981 is again similar. Section 1(3) thereof reads thus :

"**1. Short title and commencement. --**

(1) xxxxx

(2) xxxxx

(3) It shall come into force on such date as the **Administrator** may, by notification in the Official Gazette, appoint." (Emphasis supplied)

74. Thus, wherever the Legislature wanted to use the word "Administrator" they have specifically used it. On the contrary, as far as the 1998 notification is concerned the power is retained with the Central Government to appoint a date for bringing the Amendment Act of 1992 into force. Thus, the Administrator did not have the power to appoint a date for bringing the 1992 Goa Amendment Act into force and consequently he could not have stated in the 2008 notification that the said Act was in force.

75. The submission of Shri Dwarkadas learned Senior Counsel for the Petitioner was that the Administrator had rejected the application for grant of license. He had not stated that the license could not be granted or that there was prohibition on the games, but when he rejected the application, he had exercised the powers under Section 13A. We are unable to agree with this submission. The fact remains that the Administrator had not granted the license to the Petitioners to use those machines, which as of today is prohibited. As submitted by Shri Anturkar, as on today, the Dadra and Nagar Haveli and Daman and Diu Public Gambling Act, 1976 is made applicable from 20.4.2022. This Act does not have the saving provision of Section 13A referred to in the

1992 Goa Amendment Act and, therefore, as of today there is no saving clause which would permit use of those machines even in a five-star hotel. Therefore, we are of the opinion that we cannot issue a writ of mandamus directing the Administrator to issue licenses to the Petitioners to enable them to use such machines because use of those machines would be in violation of the existing law and in fact would be an offence under the Act which is in existence as of today.

76. In any case, the notification of 2008 was withdrawn vide another notification in the year 2014. Shri Dwarkadas submitted that the Petitioners had made their application on 14.3.2014 and the withdrawal notification was issued on 28.4.2014 and, therefore, the withdrawal notification could not have affected the Petitioners' application and that the authorities were bound to consider those applications as per the existing Rules. He has referred to the case of **Ambalal Sarabhai Enterprises Limited** in that behalf. With reference to Section 6(c) of the General Clauses Act his contention was that the repeal did not affect any right, privilege, obligation or liability acquired, accrued or incurred under such enactment which is repealed. However, in the present case we

are of the opinion that issuance of the Rules under the 2008 Rules itself was without any basis. Therefore, withdrawal of such rule could not mean that those rules were validly issued in the year 2008. Therefore, it cannot be said that the Petitioners have incurred right or privilege under the 2008 Rules.

77. Both the learned Senior Counsel made their submissions on the principle of promissory estoppel and legitimate expectation. Shri Dwarkadas referred to the letter dated 12.10.2007 addressed by the Respondent No.1 to the Petitioner No.1 wherein it was mentioned that the Petitioner No.1's request for granting license for operating games of electronic amusement/slot machines was examined and it was found that the such activity was permissible under the 1992 Goa Amendment Act which extended to UT of Daman and Diu. Shri Dwarkadas relied on this letter as well as the Rules issued in the year 2008 to contend that the Administrator had made a promise that such activity was permissible and that the UT had no objection for granting license for operating those games in a five-star hotel.

78. Shri Dwarkadas referred to a few judgments of the Hon'ble Supreme Court referring to the principles of promissory

estoppel and legitimate expectation. In the case of **Motilal Padampat Sugar Mills Co. Ltd. Vs. State of Uttar Pradesh and others**[14], in paragraph-24, it was observed that where the Government makes a promise knowing or intending that it would be acted on by the promisee and, in fact, the promisee, acting in reliance on it, alters his position, the Government would be held bound by the promise and the promise would be enforceable against the Government at the instance of the promisee, notwithstanding that there is no consideration for the promise and the promise is not recorded in the form of a formal contract. It was further held that no one, howsoever high or low, is above the law. Everyone is subject to the law as fully and completely as any other and the Government is no exception. It is indeed the pride of constitutional democracy and rule of law that the Government stands on the same footing as a private individual. If the Government makes such a promise and the promisee acts in reliance upon it and alters his position, there is no reason why the Government should not be compelled to make good such promise like any other private individual.

The Hon'ble Supreme Court further observed that the doctrine of promissory estoppel was equitable and it must yield

14 (1979) 2 SCC 409

when the equity so requires. If it can be shown by the Government that it would be inequitable to hold the Government to the promise made by it, the Court would not raise an equity in favour of the promise and enforce the promise against the Government. If the Government were required to carry out the promise, the Court would have to balance the public interest in the Government carrying out a promise made to a citizen which has induced the citizen to act upon it and alter this position and the public interest likely to suffer if the promise were required to be carried out by the Government and determine which way the equity lies.

79. Said judgment in the case of **Motilal Padampat Sugar Mills Co. Ltd.** was followed in the case of **Manuelsons Hotels Private Limited.** Both these judgments in turn were referred to in the case of **State of Jharkhand and others Vs. Brahmputra Metallics Ltd..** In addition, the doctrine of legitimate expectation was also considered in this judgment. It was observed that the doctrine of legitimate expectation was not merely grounded on analogy to the doctrine of promissory estoppel. A few other judgments were considered in the said case and some of the observations made in those judgments were approved. The approved observations mentioned that the

claims based on legitimate expectation are required to be tested in consonance with the public interest.

80. Shri Dwarkadas, therefore, submitted that based on the promise made by the Administrator in the year 2007, the Petitioner had made an application for grant of license and, therefore, the Administrator was bound by his own promise made to him vide the aforesaid letter dated 12.10.2007. Shri Dwarkadas submitted that he has altered his position and in fact invested a huge amount.

81. From the above observations of the Hon'ble Supreme Court, we find that, in the present case, the Petitioners cannot take recourse to the doctrine of promissory estoppel or legitimate expectation because rejection of the application for license is based on public policy. It was within the domain of the Legislature and the Administrator to consider what is the policy that serves the best interest of the people in the UT of Daman and Diu. It was their policy decision and in this case, the Court cannot interfere in the policy decision. Shri Dwarkadas relied on some resolutions passed by some panchayats in the area. However, that does not affect the power of the policy makers to consider what is the best policy for the people in that area.

82. In the present case, the 2014 withdrawal notification shows that it was not in the best interest of the people in that locality to have the slot machines / electronic amusements used in a five-star hotel in the UT of Daman and Diu. Since the policy is issued in the public interest, writ of mandamus based on the doctrine of promissory estoppel or legitimate expectation cannot be passed.

83. Even otherwise, as discussed above, the 1992 Goa Amendment Act was not brought into force. Consequently, Section 13A referred to hereinabove was not in operation and, therefore, the then Administrator had no authority to make that promise. Even otherwise, such promise had its life only for three years within which the Petitioners had to abide by the conditions. The Application for grant of license was made much later in the year 2014 which was beyond the period of three years from 2007 when the so called promise was made by the Administrator. Though there is correspondence between the MHA and the Petitioners and the MHA and the Administrator referring to the 1992 Goa Amendment Act, the existing rules, etc., the fact remains that the 1992 Goa Amendment Act was never brought into force for UT of

Daman and Diu. As mentioned earlier, as of today, the operation of slot machines as per the 1992 Act is strictly prohibited and in fact would be an offence and therefore it is not possible to issue directions or writ of mandamus to the authorities directing them to grant license to operate those electronic amusement/slot machines in the Petitioners' five-star hotel.

84. For all these reasons, we are of the opinion that the reliefs claimed in the present Petition cannot granted. The Petition is accordingly dismissed.

(SANDESH D. PATIL, J.) (SARANG V. KOTWAL, J.)

Deshmane (PS)