



Dimensions – 34th Edition

Judgment under Pre-GST era:

1. Union of India & Ors. v. M/s. Unicorn Industries¹

Issue for Consideration	Whether the doctrine of promissory estoppel can be applied to pre-mature withdrawal of exemption, where the exemption notification specifies the time period for which the exemption notification would remain in force?
Discussion & Ruling	<p>Discussion:</p> <ul style="list-style-type: none"> The Central Government issued notification no. 71/2003-CE dated September 9, 2013 to grant exemption from payment of excise duty leviable on all goods (except the goods mentioned in Annexure-I of the notification) manufactured by the manufacturing units located in specified areas of State of Sikkim for a specified period. Similarly, notification no. 32/1999-CE and no. 33/1999-CE dated July 8, 1999 were issued to grant exemption to units located in specified area of State of Assam. The Central Government issued notification no. 21/2007-CE dated April 25, 2007 to amend the exemption notifications. Accordingly, the exemption granted in respect of the manufacture of pan masala, tobacco, manufactured tobacco substitutes, and plastic carrier bags of less than 20 microns, was withdrawn prior to expiry of the specified period considering their hazardous nature. Aggrieved by such withdrawal of exemption, the manufacturers located in the said notified area filed a writ appeal in the respective jurisdictional High Court in order to quash the withdrawal notification and restore the exemption benefits on the basis of the doctrine of promissory estoppel. The respective jurisdictional High Court allowed the writ petition and directed the Central Government to allow exemption to such manufacturers.

¹ Civil Appeal No. 7432 of 2019 – The Supreme Court of India



- Aggrieved by the order of the jurisdictional High Courts, the Central Government filed an appeal against the order in the Hon'ble Supreme Court.
- The Supreme Court observed that power to grant exemption flows from the provisions of the Act. The power to exempt also includes the power to modify or withdraw the same.
- Further, as per the General Clauses Act, an authority which has the power to issue a notification is also able to rescind or modify the notification.
- The doctrine of promissory estoppel is applicable to use against the Government, particularly where it is necessary to prevent fraud or injustice. However, while invoking the doctrine, the courts should consider all aspects, including public good at large.
- When withdrawal of exemption is in the public interest, the public interest must override any consideration of private loss or gain. Withdrawal of exemption in the public interest is a matter of policy and the courts would not bind the Government to its policy decisions.
- Even where the exemption notification specifies the period for which the exemption would remain in force, withdrawal of exemption prior to the expiry of said period in the public interest would not invoke the doctrine of promissory estoppel.
- Once public interest is accepted as a superior equity which can override an individual equity, the same principle should be applicable in such cases where the period is prescribed.

Ruling:

The doctrine of promissory estoppel cannot be invoked against pre-mature withdrawal of exemption in the public interest.

**Dhruva
Comments /
Observations**

The authority has statutory power to supersede or revoke the exemption notification in the public interest. The doctrine of promissory estoppel is subject to larger public interest. Public interest prevails over individual interest and is superior.



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