

Benefit of tax exemption should be read as a whole and in accordance with the legislative intent without any addition or subtraction – Supreme Court

5 May 2022



Summary

The Hon'ble Supreme Court (SC), in the present case held that the exemption provisions should be read as a whole and in accordance with its legislative intent¹. Further, the exemption benefits cannot continue indefinitely and particularly not beyond the revival of sick unit. The Apex Court observed that the equitable principle of promissory estoppel cannot be invoked for enforcing promises beyond the provisions of law. Accordingly, the tax exemption granted to the appellant was held ultra vires the provisions of the Kerala Sales Tax Act.

Facts of the case

- The appellant² took over a sick unit³ which was engaged in dyeing of clothes. The proceedings were pending before the BIFR⁴ in which the authorities were assessing the possibility of revival of the unit.
- In tune with the recommendations of the Empowered Committee, the government order (GO) was issued⁵ to completely waive off the past arrears of Sales Tax/ Works Contract Tax and to exempt works contract tax in the State on processing of fabrics like bleaching and dyeing etc.
- Accordingly, appellant availed the benefit of such waiver. However, subsequently another Government orders were issued to disallow the exemption benefits and for withdrawal of the waiver/exemption granted to the appellant with immediate effect.
- The appellant filed a writ petition⁶ before the Kerala High Court (HC) wherein the

HC provided limited relief to the appellant to enable filing a representation and directed the State to pass a speaking order after affording hearing to the appellant. Thereafter, the aggrieved appellant filed present appeal before the Apex Court.

- The appellant contended that the benefit of tax exemption granted by the State was binding on the State⁷ and the State must be held accountable for its promise. Further, the tax exemption could not be withdrawn by invoking the powers under Kerala General State Tax (KST) Act⁸.

Supreme court observations and ruling⁹:

- **Timelines for tax exemptions not specified:** The Apex Court observed that though the GO was issued in the year 2004 and the scheme enacted in furtherance of the GO issued in the year 1994, both these documents do not specify the timeline for tax exemption

¹ relying on its recent decision in Arcelor Mittal Nippon Steel India Ltd.

² Augustan Textile Colours Limited

³ M/s Teak Tex Processing Complex Ltd

⁴ Board for Industrial and Financial Reconstruction

⁵ On 20.3.2004

⁶ W.P.(C) No. 5677 of 2007

⁷ under Section 19(3) of SICA

⁸ Section 10(3) of KST Act

⁹ Civil Appeal No. 2830 of 2022, order dated 08 April 2022

prescribed in the GO issued in the year 1994. The SC placed reliance on a judgement¹⁰ and held that in absence of any prescribed timeline, same cannot be imported from GO issued in the year 1994. Further, the exemption benefits cannot continue indefinitely and particularly not beyond the revival of sick unit.

the State shall affect public interest, hence the appeal stands dismissed.

- **Exemption can be granted in law only:** The benefit to grant tax exemption must be traceable from KST Act and such benefits could not be granted in terms of the BIFR scheme. In this case, the tax exemption¹¹ granted to appellant was ultra vires the provisions¹² of the KST Act, hence it cannot be continued further.
- **Equitable principle of promissory estoppel cannot be invoked:** In the present case, appellant was the sole beneficiary of tax exemption which is contrary to the KST Act. The government is empowered under KST Act to withdraw the exemption at any time. Thus, the principle of promissory estoppel could not help the appellant to challenge the GO¹³.
- **Power to grant exemption:** The exemption granted initially was not premised on under KST Act, instead it was under Section 19 of the SICA Act. The exemption granted can be understood as springing from the provisions¹⁴ of SICA. Thus, the exemption is not to be treated as falling under provisions of KST Act.
- **Dismissal of appeal:** The appellant was the only one who enjoyed such advantage in the State for a considerable period and is now in profit. Further, enforcing the promise against

¹⁰ Arcelor Mittal Nippon steel India Ltd.

¹¹ Under GO issued in the year 2004

¹² Section 10(1) of the KST Act

¹³ issued in the year 2006

¹⁴ Section 19(3) read with 19(1)

Our comments

Earlier, the Apex Court in case of Dilip Kumar and Company & Ors.¹⁵ had held that the benefit of ambiguity in the exemption notification cannot be claimed by the taxpayer, and it must be interpreted in favour of Revenue.

Similarly, the Hon'ble Apex Court recently in case of Krishi Upaj Mandi Samiti¹⁶ has held that the statutory exemption provisions need to be interpreted in the light of words employed in them and there cannot be any addition or subtraction from the statutory provisions.

Even in case of Arcelor Mittal Nippon Steel India Limited¹⁷, the SC had observed that the exemption provisions and the notifications are to be strictly interpreted in accordance with legislative intent. The present ruling is also in line with the above rulings.

An analogy can also be drawn under GST regime while availing exemption benefit so as to mitigate future litigations.

¹⁵ Civil Appeal No. 3327 of 2007

¹⁶ Civil Appeal No. 1482 of 2018

¹⁷ Civil Appeal nos. 7710-7714 of 2021

Contact us

To know more, please visit www.grantthornton.in or contact any of our offices as mentioned below:

NEW DELHI

National Office,
Outer Circle,
L 41, Connaught Circus,
New Delhi - 110001
T +91 11 4278 7070

NEW DELHI

6th Floor, Worldmark 2,
Aerocity,
New Delhi - 110037
T +91 11 4952 7400

AHMEDABAD

Unit No - 603 B, 6th Floor,
Brigade International
Financial Center,
GIFT City Gandhinagar,
Ahmedabad - 382355
T +91 11 4278 7070

BENGALURU

5th Floor, 65/2, Block A,
Bagmane Tridib,
Bagmane Tech Park,
CV Raman Nagar,
Bengaluru - 560093
T +91 804 243 0700

CHANDIGARH

B-406A, 4th Floor,
L&T Elante Office Building,
Industrial Area Phase I,
Chandigarh - 160002
T +91 172 433 8000

CHENNAI

9th floor, A wing, Prestige
Polygon, 471 Anna Salai,
Mylapore Division, Teynampet,
Chennai - 600035
T +91 44 4294 0000

DEHRADUN

Suite No 2211, 2nd Floor,
Building 2000, Michigan Avenue,
Doon Express Business Park,
Subhash Nagar,
Dehradun - 248002
T +91 135 264 6500

GURGAON

21st Floor, DLF Square,
Jacaranda Marg,
DLF Phase II,
Gurgaon - 122002
T +91 124 462 8000

HYDERABAD

Unit No - 1, 10th Floor,
My Home Twitza, APIIC,
Hyderabad Knowledge City,
Hyderabad - 500081
T +91 40 6630 8200

KOCHI

6th Floor, Modayil Centre Point,
Warriam Road Junction,
MG Road
Kochi - 682016
T +91 484 406 4541

KOLKATA

10C Hungerford Street,
5th Floor,
Kolkata - 700017
T +91 33 4050 8000

MUMBAI

11th Floor, Tower II,
One International Center,
SB Marg Prabhadevi (W),
Mumbai - 400013
T +91 22 6626 2600

MUMBAI

Kaledonia, 1st Floor,
C Wing,
(Opposite J&J Office),
Sahar Road, Andheri East,
Mumbai - 400069

NOIDA

Plot No 19A, 2nd Floor,
Sector - 16A,
Noida - 201301
T +91 120 485 5900

PUNE

3rd Floor, Unit No 310-312,
West Wing, Nyati Unitree,
Nagar Road, Yerwada
Pune - 411006
T +91 20 6744 8800

For more information or for any queries, write to us at GTBharat@in.gt.com



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