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HIGH COURT OF CHHATTISGARH AT BILASPUR**WPT No. 196 of 2025**

- Abis Exports India Private Ltd A Company Incorporated Under Indian Company Act 1956 Having Its Registered Office At Ib Corporate House, Village - Indamara, Post - Pendri, District Rajnandgaon (C.G.), Through Its Director, Mr. Anjum Alvi S/o Late Dr. Iqbal Alvi, Aged About 60 Years, R/o Ward No. 19, Anupam Nagar, Rajnandgaon, P.S. Basant, Post Rajnandgaon (C.G.)

... Petitioner(s)**versus**

1. State Of Chhattisgarh Through Its Chief Secretary Government Of C.G., Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District Raipur (C.G.)
2. Director Directorate Of Industries, Udyog Bhawan Ring Road No. 01, Telibandha, Raipur (C.G.)

... Respondent(s)

For Petitioner	:	Mr. Rajiv Shrivastava, Senior Advocate assisted by Mr. Kaif Ali Rizvi, Advocate
For State	:	Ms. Anuradha Jain, Dy. G.A.

Hon'ble Shri Justice Rakesh Mohan Pandey**Order On Board****13.4.2026**

- 1) By way of this petition, petitioner has sought following reliefs:-

10.1 That, this Hon'ble Court may kindly be pleased to call for the entire records of the present case from the respondents.



10.2 That, this Hon'ble Court may kindly be pleased to quash the order dated 2.8.2024, bearing no. F 19-07/2020/11/6, passed by Respondent No. 1

10.3 That, this Hon'ble Court may kindly be pleased to direct the respondents to reimburse the tax benefits to petitioner as per the policy, 2012.

10.4 Any other relief(s)/ order(s)/ direction(s) in favor of petitioner, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, in the interest of justice.

10.5 Cost of the petition.

- 2)** Learned Senior counsel appearing for the petitioner submits that petitioner established an industry according to Agriculture and Food Processing Industrial Policy, 2012 floated by the State Government which assured subsidy relaxation and refund of Value Added Tax (VAT) and Central Sales Tax (CST) in favor of industrialists. He further submits that after enactment of Central Goods and Services Tax Act, 2017 (hereinafter to be referred as 'CGST Act'), the aforesaid relaxations and tax facilities are not being extended to the petitioner. He contends that petitioner preferred WPC No. 614 of 2020 before this Court which was disposed vide order dated 14.2.2020 directing respondent authorities to decide the pending representations of petitioner but Secretary, Department of Commerce and Industry, State of Chhattisgarh vide order dated 2.8.2024 rejected the same without considering the proviso appended to Section 174 (2) (c) of CGST Act. He further contends that the proviso states that any tax exemption granted as an incentive against investment through a notification shall not continue as privilege if the said notification is rescinded on or after the



appointed day. He argues that incentive extended to the petitioner was never withdrawn by the State Government therefore petitioner is still entitled to continue with the incentive and other subsidies. He further argues that CGST Act is not change in law, rather all the provisions of prevailing tax acts have been subsumed in one act. He prays to quash the order dated 2.8.2024.

3) On the other hand, learned State counsel submits that decision to withdraw the benefits extended to the petitioner-industry was taken pursuant to enactment of CGST Act and the authority concerned has rejected the representations made by the petitioner-industry on the ground that following the change in law, the circumstance which necessitated extension of subsidy has now disappeared. She further submits that present petition is misconceived and liable to be dismissed.

4) I have heard learned counsel for the parties and perused the documents placed on record.

5) Section 174 (2) (c) of the CGST and the proviso appended to it read as under :-

174. Repeal and Saving –

(1) * * * *

(2)The repeal of the said Acts and the amendment of the Finance Act, 1994 (hereafter referred to as "such amendment " or " amended Act", as the case may be) to the extent mentioned in the sub-section (1) or section 173 shall not-

(a) * * * *

(b) * * * *



(c) affect any right, privilege, obligation, or liability acquired, accrued or incurred under the amended Act or repealed Acts or orders under such repealed or amended Acts:

Provided that any tax exemption granted as an incentive against investment through a notification shall not continue as privilege if the said notification is rescinded on or after the appointed day; or

Bare reading of the aforementioned provision makes it clear that tax exemption granted as incentive against an investment through a notification shall continue, if it is not withdrawn or rescinded.

- 6) In the present case, State has not placed a single document on record to substantiate that tax relaxation extended to petitioner was ever withdrawn prior to the appointed day. Hon'ble Supreme Court in the matter of ***Hero Motocorp Limited Versus Union of India and Others***¹ while dealing with the provisions of Section 174 (2) (c) of CGST Act in paragraphs 40 and 41 held as under :-

40. It can thus be seen that, though the first part of clause (c) of sub-section (2) of Section 174 would protect any right, privilege, obligation, etc. under the amended Act or repealed Acts, the proviso thereto provides that any tax exemption granted as an incentive against investment shall not continue as a privilege if the said notification is rescinded on or after the appointed day. Admittedly, vide Notification No. 21/2017 dated 18-7-2017, various earlier area-based exemption notifications have been rescinded. It is thus clear that the benefit which was granted under the 2003 Notification stands rescinded in view of the notification issued under the proviso to clause (c) of sub-section (2) of Section 174 of the CGST Act.

41. The question, therefore, that would fall for consideration is, as to whether, despite a

1. (2023) 1 SCC 386



subsequent statute specifically providing for rescinding the benefits granted under an earlier statute, the Union Government can be compelled to stand by the representation made by it through the earlier notification. In other words, the question that will have to be considered is whether doctrine of promissory estoppel could operate against a statute.

- 7) Taking into consideration the proviso appended to Section 174 (2) (c) of CGST Act and the law laid down by the Apex Court in the matter of **Hero Motocorp Limited** (supra), in my opinion, the authority concerned has not considered Section 174 (2) (c) of CGST Act while rejecting the representations made by the petitioner.
- 8) Accordingly, the order dated 2.8.2024 is hereby quashed and petition stands **disposed**. Respondent authorities are directed to reconsider the representations made by the petitioner in light of provisions contained in Section 174 (2)(c) of CGST Act and the law laid down by the Apex Court in the matter of **Hero Motocorp Limited** (supra). It is expected that the entire exercise shall be completed by the respondent authorities within period of 60 days from the date of receipt of copy of this order.

Sd/-
(Rakesh Mohan Pandey)
JUDGE