

- : 1 :-

**IN THE HIGH COURT OF MADHYA PRADESH**  
**AT INDORE**  
**BEFORE**

**HON'BLE SHRI JUSTICE VIVEK RUSIA**

**&**

**HON'BLE SHRI JUSTICE AMAR NATH (KESHARWANI)**

**WRIT PETITION No. 1345/2005**

Between:-

KRITI INDUSTRIES (INDIA) LIMITED (A  
COMPANY INCORPORATED UNDER THE  
PROVISIONS OF THE COMPANIES ACT, 1956  
HAVING ITS FACTORY AT PLOT NO.3  
INDUSTRIAL AREA, SECTION 3 PITHAMPUR (MP)  
AND REGISTERED OFFICE AT 212, CHETAK  
CHAMBER, RNT MARG- INDORE THROUGH  
LALIT JOSHI MANAGER-LEGAL

**.....PETITIONER**

**AND**

1.STATE OF M.P. THROUGH PRINCIPAL  
SECRETARY COMMERCIAL TAX DEPARTMENT,  
GOVT OF MADHYA PRADESH, VALLABH  
BHAVAN, BHOPAL.  
2. THE COMMISSIONER, COMMERCIAL TAX  
COMMERCIAL TAX DEPARTMENT HEAD OFFICE  
MOTI BUNGLOW, M.G. ROAD, INDORE.

**.....RESPONDENTS**

**WRIT PETITION No. 3339/2005**

Between:-

LAXMI SOLVEX, (A DIVISION OF LAXMI VENTURES INDIA LTD.) A COMPANY DULY INCORPORATED UNDER THE PROVISIONS OF THE COMPANIES ACT, 1956 HAVING IT'S ADMINISTRATIVE OFFICE AT B/5 CHATURVEDI MANSION, 26/4 NEW PALASIA, INDORE M.P. THROUGH AKASH AGRAWAL, AGED 30 YEARS, OCCUPATION-BUSINESS, ADDRESS B/5 CHATURVEDI MANSION 26/4, NEW PALASIA, INDORE, DIRECTOR OF LAXMI VENTURES (INDIA) LTD.

.....PETITIONER

**AND**

1.STATE OF M.P. THROUGH PRINCIPAL SECRETARY COMMERCIAL TAX DEPARTMENT, GOVT OF MADHYA PRADESH, VALLABH BHAVAN, BHOPAL.

2.ASSISTANT COMMISSIONER, COMMERCIAL TAX DEPARTMENT, DIVISION NO.3, CHETAK CHAMBERS, RNT MARG INDORE

3 COMMERCIAL TAX OFFICER, COMMERCIAL TAX DEPARTMENT, CIRCLE-12, CHETAK CHAMBER, RNT MARK, INDORE.

.....RESPONDENTS

**WRIT PETITION No. 1668/2005**

Between:-

SONIC BIOCHEM EXTRACTIONS LTD. (A COMPANY INCORPORATED UNDER THE PROVISIONS OF THE COMPANIES ACT, 1956 HAVING ITS REGISTERED OFFICE AT 38, PATEL NAGAR INDORE THROUGH GIRISH MATLANI,

- : 3 :-

DIRECTOR

.....PETITIONER

**AND**

1.STATE OF M.P. THROUGH PRINCIPAL  
SECRETARY COMMERCIAL TAX DEPARTMENT,  
GOVT OF MADHYA PRADESH, VALLABH  
BHAVAN, BHOPAL.  
2. THE COMMISSIONER, COMMERCIAL TAX  
COMMERCIAL TAX DEPARTMENT HEAD OFFICE  
MOTI BUNGLOW, M.G. ROAD, INDORE

.....RESPONDENTS

**WRIT PETITION No. 4006/2005**

Between:-

M/S RAMA PHOSPHATES LTD (OIL DIVISION) (A  
COMPANY INCORPORATED UNDER THE  
PROVISIONS OF THE COMPANIES ACT, 1956  
HAVING IT'S REGISTERED OFFICE AT 813,  
RAHEJA CHAMBERS, NARIMAN POINT MUMBAI  
AND HAVING ITS OFFICE AT 100, CHETAK  
CENTRE 1ST FLOOR, 12/2 RNT MARG, INDORE  
THROUGH NIRMAL SANCHETI, VICE PRESIDENT  
OF THE PETITIONER COMPANY

.....PETITIONER

**AND**

1.STATE OF M.P. THROUGH PRINCIPAL  
SECRETARY COMMERCIAL TAX DEPARTMENT,  
GOVT OF MADHYA PRADESH, VALLABH  
BHAVAN, BHOPAL.

2. THE COMMISSIONER, COMMERCIAL TAX  
COMMERCIAL TAX DEPARTMENT HEAD OFFICE  
MOTI BUNGLOW, M.G. ROAD, INDORE

.....RESPONDENTS

**WRIT PETITION No. 558/2006**

Between:-

DEWAS SOYA LIMITED (A COMPANY  
INCORPORATED UNDER THE PROVISIONS OF  
THE COMPANIES ACT 1956 HAVING ITS  
REGISTERED OFFICE AT 1A/8A INDUSTRIAL  
AREA, A.B. ROAD DEVAS 455001 THROUGH  
JAMBU KUMAR GANDHI PRESIDENT OF THE  
PETITIONER COMPANY.

.....PETITIONER

**AND**

1.STATE OF M.P. THROUGH PRINCIPAL  
SECRETARY COMMERCIAL TAX DEPARTMENT,  
GOVT OF MADHYA PRADESH, VALLABH  
BHAVAN, BHOPAL.

2. THE COMMISSIONER, COMMERCIAL TAX  
COMMERCIAL TAX DEPARTMENT HEAD OFFICE  
MOTI BUNGLOW, M.G. ROAD, INDORE

.....RESPONDENTS

**WRIT PETITION No. 1963/2009**

Between:-

LAXMI SOLVEX, (A DIVISION OF LAXMI  
VENTURES INDIA LTD.) A COMPANY DULY  
INCORPORATED UNDER THE PROVISIONS OF

- : 5 :-

THE COMPANIES ACT, 1956 HAVING IT'S ADMINISTRATIVE OFFICE AT B/5 CHATURVEDI MANSION, 26/4 NEW PALASIA, INDORE M.P. THROUGH AKASH AGRAWAL, AGED 33 YEARS, OCCUPATION-BUSINESS, ADDRESS B/5 CHATURVEDI MANSION 26/4, NEW PALASIA, INDORE, DIRECTOR OF LAXMI VENTURES (INDIA) LTD.

.....PETITIONER

**AND**

1.STATE OF M.P. THROUGH PRINCIPAL SECRETARY COMMERCIAL TAX DEPARTMENT, GOVT OF MADHYA PRADESH, VALLABH BHAVAN, BHOPAL.  
2.ASSISTANT COMMISSIONER, COMMERCIAL TAX DEPARTMENT, DIVISION NO.3, CHETAK CHAMBERS, RNT MARG INDORE  
3 COMMERCIAL TAX OFFICER, COMMERCIAL TAX DEPARTMENT, CIRCLE-12, CHETAK CHAMBER, RNT MARK, INDORE.

.....RESPONDENTS

**WRIT PETITION No. 4702/2009**

Between:-

DEWAS SOYA LIMITED, INDUSTRIAL AREA, A.B. ROAD, DEWAS M.P.

.....PETITIONER

**AND**

1.COMMISSIONER, COMMERCIAL TAX DEPTT.

- : 6 :-

HEAD OFFICE, MOTI BUNGLOW, M.P. ROAD, INDORE, M.P.  
2.SHRI R.B. SINGH, ADDITIONAL ASSTT. COMMISSIONER,  
COMMERCIAL TAX DEPTT. INDORE DIVN.1/2/3 INDORE, M.P.

.....RESPONDENTS

**WRIT PETITION No. 4703/2009**

Between:-

DEWAS SOYA LIMITED, INDUSTRIAL AREA, A.B. ROAD, DEWAS,  
M.P.

.....PETITIONER

**AND**

1.COMMISSIONER, COMMERCIAL TAX DEPTT. HEAD OFFICE,  
MOTI BUNGLOW, M.G. ROAD, INDORE, M.P.  
2.SHRI V.K. SHRIVASTAVA APPELLATE AUTHORITY AND DY.  
COMMISSIONER, COMMERCIAL TAX DEPTT. INDORE, M.P.

.....RESPONDENTS

Shri Manoj Munshi learned counsel for the Petitioner in all  
the writ petitions.

Shri Umesh Gajankush learned counsel for the respondent in  
all the writ petitions.

O R D E R

01.04.2022

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Regard being had to the similitude in the controversy  
involved in the present case, with the consent of the parties, all writ

petitions are analogously heard and being decided by this common order. Facts of W.P. No.3339/2005 are being taken to understand the controversy between the parties.

The petitioner has filed this writ petition being aggrieved by notice dated 09.09.2005 and 13.09.2005 issued by respondent No.2 to appear on 20.09.2005/19.09.2005 for the assessment of the tax for the first quarterly period from January 2005 to March 2005 as the Soybean has been notified for payment of tax under section 10-B of the Adhiniyam,1994.

**The facts of the case in short are as under :-**

(1) The petitioner is a Private Limited Company incorporated under the Companies Act, 1956. The petitioner is engaged in the business of production and sale by way of export of Soybean in the solvent extraction plant situated at Gram Siya, Durgapura, District Dewas. The annual production capacity of the petitioner Unit is 400 Metric Tons per day and the petitioner unit is a prominent exporter of De-oiled Cakes.

(2) The Government of Madhya Pradesh issued notification No.A-3 (1)-95-ST-C-(43) dated 06.06.1995 to grant exemption to the extent of 250% of capital investment in fixed assets for a period of 11 years to the NRI/100% EOU and exporting units. The petitioner being an Exporting Industrial Unit (EIU) has been issued an Eligible Certificate dated 30.10.2001 availing exemption from

payment of Commercial Tax payable under Section 9 and from payment of Purchase Tax Act and payable under section 10 of the Madhya Pradesh Vanijyik Kar Adhiniyam, 1994 (**in short the Adhiniyam,1994**) .

(3) The State Government vide notification No.A3-4-2001-ST-V(25) by way of the amendment kept on extending the applicability of the notification from time to time and the last notification was issued on 30.06.2004 extending the applicability up to 31.03.2005. Vide notification dated 30.03.2001 in the exercise of the power conferred under section 17 of the Adhiniyam, 1994, the State Government has exempted the class of goods specified in column (2) of the Schedule from payment of tax under the said Adhiniyam,1994 to the extent specified in column (3), subject to restrictions and conditions for the period from 01.04.2001 to 31.03.2005. In view of the aforesaid notification, the petitioner has availed the benefit of exemption on purchase of oil seeds (which is the main raw material for petitioner's unit), from payment of tax under sections 9 and 10 of the Adhiniyam,1994. According to the petitioner by virtue of the eligibility certificate dated 06.04.2000, the petitioner has been exempted from payment of tax on purchases of Soybean seeds from 01.04.2001 to 31.03.2005.

(4) Under Section 10 of the Adhiniyam,1994 a dealer is required



to pay purchase tax on purchases of goods under two situations, *firstly* when purchased from a registered dealer and on such purchase no tax under section 9 is payable by the selling dealer and *secondly* when purchased from unregistered dealer and goods so purchased is used of consumed in the manufacturing or processing of other goods. It is the case of the petitioner that during validity period of exemption from payment of tax the State Government has amended the provisions of Section 10 of Adhiniyam,1994 w.e.f. 13.12.2004 by inserting section 10-B and simultaneously Section 10 has also undergone amendment. By amending Section 10 the State Government has authorized the department to classify certain goods to be notified separately under the newly inserted section 10-B. Meaning thereby by inserting section 10-B, a new charging section has been inserted for charging a tax on the goods which are otherwise exempted for payment of tax by virtue of exemption notification issued by the Government. The State Government vide notification No.A-3-36-2003-ST-B (26) dated 13.12.2004 has notified **Soybean** as goods for the purpose of charging tax under section 10-B of the Adhiniyam, 1994 from the date of notification to 31.03.2005. Meaning thereby from the period 13.12.2004 till 31.03.2005, the Soybean has been notified for payment of tax under section 10-B of the Adhiniyam,1994. Respondent No.2 after the above amendment and in pursuant to the impugned notification

has issued notice to the petitioner with direction to appear on 20.09.2005 for the assessment of the tax for the first quarterly period from January 2005 to March 2005. The aforesaid notice gave the cause of action to the petitioner to approach before this Court by way of the present petition.

(5) The petitioner has assailed the impugned notification dated 13.12.2004 and the impugned notice dated 13.09.2005 without challenging the validity and competence of amendment in Section 10 and newly insertion of section 10-B on the ground that State Government has breached of promissory estoppels by imposing the tax on Soybean Seeds by back door entry by amending the existing provisions of section 10 and inserting a new section 10-B. The respondent can levy purchase tax under section 10 of the Adhiniyam,1994 therefore, the issue of notification under section10-B is unwarranted. Notification No.43 dated 06.06.1995 and Eligibility Certificate are still in force as notification No.25, 26 dated 13.12.2004 have not been withdrawn, therefore, the respondent cannot demand the tax by issuing impugned notice. Hence, pray for the quashment of the impugned notification dated 13.12.2004 and the impugned notice dated 13.09.2005.

(6) The respondents/ state filed the reply by submitting that the principle of Promissory Estoppel does not apply to legislature and Legislative Act. Therefore, the whole petition is misconceived and

liable to be dismissed. It is further submitted that the Legislature of M.P. in its wisdom and powers vested in it has amended Section 10 and inserted section 10-B in the Adhiniyam,1994. The amending provisions have been made applicable to the petitioner and other identically placed manufacturers/ assesseees from the date of notification. The amendment has been made applicable from the date of notification. Certificates issued to the petitioner under Sections 9 and 10 of the Adhiniyam,1994 are of no use because there is no exemption to the petitioner under section 10-B of the Adhiniyam,1994. The earlier notifications and certificate were issued under sections 9 and 10 and there is no notification exempting the petitioner under Section 10-B which is the new charging section, hence, the petitioner cannot claim exemption by virtue of the earlier notification issued under section 10 which is not applicable to the petitioner. Since the impugned notice has been issued after insertion of Section 10-B of the Act, hence, it cannot be said illegal and no interference is called for, thus the writ petition is liable to be dismissed.

We have heard the learned counsel for the parties at length and perused the record of the case.

(7) By order dated 01.02.2006 the respondents were permitted to go on with the assessment proceedings but restrained to finalize the same. The aforesaid order has been confirmed on 03.05.2006

restraining the respondent to take coercive action against the petitioner for the recovery of the impugned tax demand, therefore, the assessment proceedings have not been completed but by virtue of the interim order, no recovery has been made by the petitioner.

(8) The State Government has issued notification No.A-3 (1) 95-ST-V (43) dated 06.06.1995 on being satisfied that it is necessary so to do in the public interest and in the exercise of the power conferred under sub-section (1) and (3) of the Section 17 the Adhiniyam, 1994 has exempted payment of tax under section 6 and 7 of the Repealed Act and Section 9 and 10 of the Adhiniyam,1994 and the Central Act for the class of dealers specified in column (2) of Schedule 1 and column (1) Schedule II subject to the restrictions and conditions specified in column (4). Industrial Unit specified in (iii) of Chapter -6 which are eligible for the facility of the exemption from payment of tax under this notification. Petitioner falls in the category of Industry "all type of oil mill solvent extraction plant". Hence, applied for an exemption certificate being a 100% export-oriented unit. Directorate of Industries M.P. has issued a certificate dated 06.04.2000 in form III to the petitioner declaring eligible for availing of the facility of exemption of payment of tax under the CTD notification No. A-3(1)-95-ST-V (43) dated 06.06.1995 as a dealer. The period of eligibility certificate was extended from time to time and finally, it was

extended up to 31.02.2007. The notification under Section 17 of the Adhiniyam, 1994 has also been extended for oil seed from 01.04.2001 to 31.03.2005. In column 4 of Chapter 6, the dealer is specified in serial No.1,2 and 3 of Schedule-I and Schedule-II shall have the option to avail the facility of deferment of payment of tax in lieu of facility of exemption from payment of tax under this notification and option shall be exercised shall be final. The petitioner has obtained for exemption in place of deferment. It has further clarified by way of clause 11 the facility of exemption under sections 6 and 7 of the repealed Act or Sections 9 and 10 of the Adhiniyam,1994 for the maximum period specified in column (4) of the said Schedule, therefore, the notification dated 06.06.1995 was issued for grant of benefit of exemption from payment of tax under Section 9 and 10 of the Adhiniyam.

**(9)** By way of Madhya Pradesh Vanijyik Kar (Sanshodhan) Adhiniyam, 2004 published M.P. Gazette (Extra-Ordinary) dated 29.12.2004, the amendment has been made in section 10 and section 10-B has been inserted. By way of section 10-B, a new charging section has been added for those dealers who are in the course of their business purchasing any goods as may be notified by the Central Government and thereafter vide notification dated 13.12.2004 in the exercise of the powers conferred by sub-section (1) of Section 10-B, the State Government has notified Soybean for

the purpose of tax for the period from the of publication of notification till 31.03.2005 @ 1.5% when the goods specified in column (2) are purchased for use as raw material in the manufacture of other goods. The Soybean has also been added to the schedule as the class of goods by way of notification dated 13.12.2004. By another notification 13.12.2004, Soybean oil manufactured by dealers who are eligible to avail of the exemption under notification dated 13.12.2004 has also been made liable to pay tax under section 10-B. The aforesaid amendment has led to the issuance of notice to the petitioner for payment of tax from 01.01.2005 till 31.03.2005 which is covered by way of notification dated 13.03.2001. The main contention of the petitioner is that under the principles of promissory estoppels, the petitioner is not liable to pay tax by virtue of exemption notification and validity of the certificate issued by the respondent. It is settled law that there cannot be estoppels against the statute. Therefore, this contention is liable to be rejected.

**(10)** So far the competency of the legislature to amend the statute is concerned, the petitioner is not challenging the validity of Madhya Pradesh Vanijyik Kar (Sanshodhan) Adhiniyam, 2004 No.19 of 2004, therefore, there is no question of examining the validity of aforesaid notification.

**(10)** Earlier exemption notification dated 06.06.1995 was issued

giving the benefit of exemption from payment of tax payable under sections 9 and 10 of the Adhiniyam, 1994 and pursuant to the aforesaid notification, the Director of Industry has issued a certificate of eligibility for availing the facility of exemption of tax under notification dated 06.06.1995, therefore, a notification from exemption was issued only for those dealers and manufacturers who are liable to pay tax under section 9 and 10 of Adhiniyam, 1994. Now by way of section 10-B, a new charging section has been introduced for every dealer who in the course of his business purchases any goods as may be notified by the Government. After the insertion of Section 10-B and issuance of notification classifying Soybean as a class of goods, the respondents are treating the petitioner as out of the purview of section 10, hence withdrawing to avail the benefit of exemption from tax by virtue of notification 06.06.1995. But the respondents have not withdrawn the notification which was valid for the period mentioned in it. Due to the insertion of section 10-B, the petitioner has been brought from section 10 hence any notification issued for granting charging of tax under section 9 and 10 will apply to the petitioner from the date of issuance of notification prospectively. The petitioner has established the soybean extraction plant in the backward area of the State on the incentive in the form of exemptions from the tax for a fixed period under the Adhiniyam, 1994.

(11) In the case of *Southern Petrochemical Industries Co. Ltd. v. Electricity Inspector & ETIO*, reported in (2007) 5 SCC 447 Supreme Court of India has held as under:-

106. Furthermore, exemption from payment of tax in favour of the appellants herein would also constitute a right or privilege. The expression “privilege” has a wider meaning than right. A right may be a vested right or an accrued right or an acquired right. Nature of such a right would depend upon and also vary from statute to statute. It has been so held by this Court, while construing Section 6 of the General Clauses Act, in *Gurcharan Singh Baldev Singh v. Yashwant Singh* [(1992) 1 SCC 428] in the following terms : (SCC p. 432, para 3)

“The objective of the provision is to ensure protection of any right or privilege acquired under the repealed Act. The only exception to it is legislative intention to the contrary. That is, the repealing Act may expressly provide or it may impliedly provide against continuance of such right, obligation or liability.”

121. The doctrine of promissory estoppel would undoubtedly be applicable where an entrepreneur alters his position pursuant to or in furtherance of the promise made by a State to grant inter alia exemption from payment of taxes or charges on the basis of the current tariff. Such a policy decision on the part of the State shall not only be expressed by reason of notifications issued under the statutory provisions but also under the executive instructions. The appellants had undoubtedly been enjoying the benefit of (*sic* exemption from) payment of tax in respect of sale/consumption of electrical energy in relation to the cogenerating power plants.



**127.** In *MRF Ltd. v. Asstt. CST* [(2006) 8 SCC 702] wherein one of us (Katju, J.) was a member, *Kasinka Trading* [(1995) 1 SCC 274] has also been held to be inapplicable where a right has already accrued; for instance, in a case where the right to the exemption of tax for a fixed period accrues and the conditions for that exemption have also been fulfilled, the withdrawal of that exemption cannot affect the already accrued right.

***Legitimate expectation***

**132.** We may also notice the emerging doctrine in this behalf viz. legitimate expectation of substantive benefit. Ordinarily, the said principle would not have any application where the legislature has enacted a statute. As, according to us, the legislature in this case allowed the parties to take benefit of their existing rights having regard to the repeal and saving clause contained in Section 20(1) of the 2003 Act, the same would apply. If, thus, principle of promissory estoppel would apply, there may not be any reason as to why the doctrine of legitimate expectation would not.

**133.** Legitimate expectation is now considered to be a part of the principles of natural justice. If by reason of the existing state of affairs, a party is given to understand that the other party shall not take away the benefit without complying with the principles of natural justice, the said doctrine would be applicable. The legislature, indisputably, has the power to legislate but where the law itself recognises existing right and did not take away the same expressly or by necessary implication, the principles of legitimate expectation of a substantive benefit may be held to be applicable.

**(12)** In another case of *MRF Ltd. v. CST*, reported in **(2006) 8 SCC 702** the Apex court has held that

**39.** MRF made a huge investment in the State of Kerala under a promise held to it that it would be granted exemption from payment of

sales tax for a period of seven years. It was granted the eligibility certificate. The exemption order had also been passed. It is not open to or permissible for the State Government to seek to deprive MRF of the benefit of tax exemption in respect of its substantial investment in expansion in respect of compound rubber when the State Government had enjoyed the benefit from the investment made by MRF in the form of industrial development in the State, contribution to labour and employment and also a huge benefit to the State exchequer in the form of the State's share i.e. 40% of the Central excise duty paid on compound rubber of Rs 177 crores within the State of Kerala. The impugned action on the part of the State Government is highly unfair, unreasonable, arbitrary and, therefore, the same is violative of Article 14 of the Constitution of India. The action of the State cannot be permitted to operate if it is arbitrary or unreasonable. This Court in *E.P. Royappa v. State of T.N.* [(1974) 4 SCC 3 : 1974 SCC (L&S) 165] observed that where an act is arbitrary, it is implicit in it that it is unequal both according to political logic and constitutional law and is therefore violative of Article 14. Equity that arises in favour of a party as a result of a representation made by the State is founded on the basic concept of "justice and fair play". The attempt to take away the said benefit of exemption with effect from 15-1-1998 and thereby deprive MRF of the benefit of exemption for more than 5 years out of a total period of 7 years, in our opinion, is highly arbitrary, unjust and unreasonable and deserves to be quashed. In any event the State Government has no power to make a retrospective amendment to SRO No. 1729/93 affecting the rights already accrued to MRF thereunder.

**(13)** In the case of *Mahabir Vegetable Oils (P) Ltd. v. State of Haryana*, reported in **(2006) 3 SCC 620 Supreme Court of India** has held as under:-

**22.** It is not in dispute that when the appellants herein started making investments, Rule 28-A was operative. Representation indisputably was made in terms of the said Rules. The State, as noticed hereinbefore, made a long-term industrial policy. From time to time it makes changes in the policy keeping in view the situational change.

**23.** The State intended inter alia to grant incentive to include industrial units by way of waiver and/or deferment of payment of sales tax wherefor Rule 28-A was made. The sales tax laws enacted by the State, as noticed hereinbefore, contain a provision empowering the State to grant such exemption.

**24.** The relevant provisions of the Act and the Rules framed thereunder indisputably were made keeping in view the industrial policy of the State. Such industrial policies by way of legislation or otherwise, subject, of course, to the provisions of the statute have been framed by several other States.

**25.** It is beyond any cavil that the doctrine of promissory estoppel operates even in the legislative field. Whereas in England the development and growth of promissory estoppel can be traced from *Central London Property Trust Ltd. v. High Trees House Ltd.* [(1947) 1 KB 130 : (1956) 1 All ER 256 (note)] in India the same can be traced from the decision of this Court in *Collector of Bombay v. Municipal Corpn. of the City of Bombay* [1952 SCR 43 : AIR 1951 SC 469] . In that case the Government made a grant of land (which did not fulfil requisite statutory formalities) rent free. It, however, claimed rent after 70 years. The Government, it was opined, could not do so as they were estopped. It was further held therein that there was no overriding public interest which would make it inequitable to enforce estoppel against the State as it was well within the power of the State to grant such exemption.

The Apex court in the above judgments has held *firstly* the doctrine of promissory estoppel operates even in the legislative field, *secondly*, the attempt to take away the benefit of exemption already granted for fixed period, is not only highly arbitrary, unjust and unreasonable but hits the principles of legitimate expectation and *thirdly* the exemption from payment of tax in favour of the person under the statute would also constitute a right or privilege.

**(14)** Apart from the above the petitioner has been granted exemption from payment of tax under section 17 of the Adhiniyam, 1994, if Government wanted to levy tax on soyabean then Government could have withdrawn the notification in exercise of power conferred under sub-section (2) of section 17 instead of inserting new charging section which specifically provides that “any notification issued under Section 17(1) may be rescinded before the expiry of the period for which it was to have remained in force and on such rescission such notification shall cease to be in force. A notification rescinding an earlier notification shall have prospective effect.

**(15)** In view of the above discussion and the law laid down by the Apex court (supra) the petitioner shall be entitled to avail the notification dated 06.06.1995 for exemption from payment of tax payable under sections 9 and 10 of the Adhiniyam,1994 a certificate

of eligibility for availing the facility of exemption of tax under notification dated 06.06.1995, till its validity period i.e. 31.03.2005.

(16) Even otherwise the period of notification was upto 31.3.2005 and same has not been continued, therefore only for three months period the petitioner has been subjected to payment of entry tax under the Adhiniyam, 1994.

(17) The impugned notices dated 09.09.2005 and 13.09.2005 issued to the petitioner are hereby quashed, and any assessment proceedings taken by virtue of interim order are also quashed.

(18) In view of the above order passed in W.P.3339/2005, the W.P. No.4703/2009, W.P. No.4702/2009, W.P. No.1963/2009, W.P. No.558/2006, W.P. No.4006/2005, W.P. No.1668/2005 and W.P. No.1345/2005 are allowed. The photo copy of this order be kept in these connected writ petitions.

No order as to cost .

Office is directed to place the copy of this order in all connected Writ Petition.

**(VIVEK RUSIA)**

**JUDGE**

**(AMAR NATH (KESHARWANI))**

**JUDGE**

*praveen/-*

HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE  
DIVISION BENCH : HON'BLE JUSTICE VIVEK RUSIA AND  
HON'BLE JUSTICE AMAR NATH (KESHARWANI) J.J.  
W.P. No.1345/2005 (Kriti Industries Vs. State of M.P. and others), W.P.  
No.3339/2005 (Laxmi Solvex Vs.State of M.P. and others), W.P.  
No.1668/2005 (Sonic Biochem Vs. State of M.P. and others),W.P.  
No.4006/2005 (M/s Rama Phosphates Vs. State of M.P. and others), W.P.  
No.558/2006 (Dewas Soya Vs.State of M.P. and others), W.P. No.1963/2009  
(Laxmi Solvex Vs. State of M.P. and others) W.P. No.4702/2009 (Dewas Soya  
Vs. Commissioner and others), W.P. No.4703/2009 (Dewas Soya Vs.  
Commissoner and others)

**Counsel for the Parties** : Shri Manoj Munshi, learned counsel for the petitioner.

Shri Umesh Gajankush, learned counsel for the respondent.

**Whether approved for reporting** : Yes

**Law laid down** : Vide notification dated 06.06.1995, the exemption from payment of tax payable from the period 01.04.2001 to 31.03.2005 under section 9 and 10 of Madhya Pradesh Vanijyik Kar Adhinyam, 1994 was given to the petitioner. In the Month of December 2004, the State Government has inserted section 10-B by way of amendment and thereby notified 'Soybean' as goods for payment of entry tax. After the amendment, the respondent No.2 has issued notice to the petitioner for payment of tax from 01.01.2005 till 31.03.2005.

**Held:-** The exemption granted under section 17(1) of Adhinyam 1994 can be withdrawn by the Government in exercise of power under section 2 of Section 17 of the Adhinyam,1994 at any stage, hence without withdrawing the earlier notification

- : 23 :-

granting benefit of exemption of tax upto 31.03.2005 by way of section 10-B is not permissible and hit by the doctrine of promissory estoppels. The attempt to take away the benefit of exception already granted for fixed period is not only highly arbitrary, unjust but hit by principles of legitimate expectation. The exemption from payment of tax in favour of the person under the statute would also constitute a right or privilege as held by the Apex Court in case of *Southern Petrochemical Industries Co. Ltd. V. Electricity Inspector & ETIO (2007) 5 SCC 447, MRF Ltd v. CST (2006) 8 SCC 702, Mahabir Vegetable Oils (P) Ltd vs. State of Haryana (2006) 3 SCC 620*

**Significant paragraph : 10-15  
numbers**

## **ORDER**

**(Delivered on this 01 April, 2022)**

**(VIVEK RUSIA) (AMAR NATH (KESHARWANI))  
JUDGE JUDGE**