

**BEFORE THE FULL BENCH, ODISHA SALES TAX TRIBUNAL:  
CUTTACK  
S.A.Nos.201 & 202 of 2003-04**

(Arising out of the order of the learned ACST, Ganjam Range,  
Berhampur, in Sales Tax Appeal No. AA 781, 783/02-03,  
disposed of on 25.01.2003)

Present: **Shri G.C. Behera, Chairman**  
**Shri S.K. Rout, 2nd Judicial Member &**  
**Shri B. Bhoi, Accounts Member-I**

M/s. Swasteek PVC Pipes,  
At/Po-Jagannathpur, Dist-Ganjam. ... Appellant.

**-Versus -**

State of Odisha, represented by the  
Commissioner of Sales Tax, Odisha,  
Cuttack. ... Respondent.

For the Appellant: : Mr. D.C. Pattnaik, Advocate.  
For the Respondent : Mr. D. Behura, S.C. (CT).  
: Mr. N.K. Rout, Addl.S.C. (C.T.)

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Date of Hearing: **01.12.2023** \*\*\* Date of Order: **30.12.2023**  
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**O R D E R**

The dealer-assessee is in appeal against the order dated 25.01.2003 of the Assistant Commissioner of Sales Tax, Ganjam Range, Berhampur (in short, 'ld. FAA') passed in Sales Tax Appeal No. AA 781 & 783/2002-03 (composite order) confirming the orders of the Sales Tax Officer, Ganjam-III Circle, Berhampur (in short, 'ld. STO') passed under Section 12(4) of the Orissa Sales Tax Act (in short, OST Act) relating to the year, 1999-

2000 and 2000-2001. Since both the first appeals have been disposed of together in a common order owing to involvement of identical question of facts and law, these second appeals are also taken up together for hearing for the sake of convenience. Accordingly, these two second appeals are disposed of in a composite order.

2. The factual matrix of the case is that the dealer-assessee under the name and style of M/s. Swasteek PVC Pipes, At\Po-Jagannathpur, Dist-Ganjam, R.C. No.GAIII-618, a partnership firm is engaged in manufacture and sale of PVC Pipes, scraps and various plastic products etc. It is worthy to mention here that the dealer-assessee as a SSI Unit registered under IPR'89 was eligible for sales tax exemption on sale of finished products up to 19.11.1999. Consequent upon withdrawal of the sales tax incentives by the Finance Department vide S.R.O. No.622/99 w.e.f. 01.08.1999, the dealer was liable to pay sales tax from 01.08.1999 and onwards. The ld. STO while assessing the dealer-assessee under Section 12(4) of the OST Act for the year 1999-2000 and 2000-2001 raised demands of ₹1,05,650.00 and ₹8,03,492.00 respectively against sales effected on or after 01.08.1999. The said demands raised in assessment were confirmed in first appeal. The dealer-assessee being aggrieved by

the above order of the ld.FAA approached this forum for relief. Hence, these second appeals.

3. Mr. D.P.Pattanaik, ld. Advocate who represents the dealer-assessee holds that the ld. FAA has erred in not relying on the decision of the Supreme Court passed in case of the **State of Andhra Pradesh Vrs. Tourists and Transport Operators** A.I.R. 2002, Page 322 in which it has been held by the Supreme Court as under:-

“The Govt. cannot claim any immunity from the doctrine of promissory estoppels and it cannot say that it is under no obligation to act in a manner i.e. fair and just or that not bound by the considerations of honesty and good faith”.

Under this analogy, the ld. Advocate pleads that the Govt. cannot withdraw the benefits in the midst which is promised earlier but, in the instant case, the forums below have acted to the contrary. Mr. Pattanaik has filed a written note asserting applicability of the doctrine of promissory estoppels in the present case relying on a judgment of the Hon'ble Apex Court in case of **Pepsico India Holdings Pvt. Ltd. Vrs. State of Kerala & Others** bearing civil appeal No.3456 of 2009 arising out of SLP (C) No.30256 of 2008.

The State has not filed any cross objection. Mr. D. Behura, Standing Counsel of the State holds relying on the decision of this forum passed in S.A. No.2730 of 2003-04 and S.A. No.1405 of 2005-06 in case of **M/s Kali Oil Mills (P) ltd. Vs.**

**State of Odisha** that the state Govt. is competent to issue Notification extending financial package and withdrawing the same taking into consideration the fiscal conditions of the state in the aid of section 6 of the OST Act.

4. Having heard both the rival parties and after going through the grounds taken by the dealer-assessee and the orders of the forum below, it is opined that the Govt. in Finance Department in exercise of the powers conferred by Section 6 of the Orissa Sales Tax Act withdrew sales tax incentives and concessions granted under various Industrial Policies w.e.f.01.08.1999 Vide Notification No.33558/CTA-71/99-F dated 30.07.1999 (S.R.O. No.622/99) in view of the state Government having been passing through a phase of grave fiscal imbalances characterized by mounting revenue and fiscal deficits. In the instant case, the dealer-assessee was eligible to sales tax incentives up to 30.07.1999. There appears to have no sales tax exemption certificates issued to the dealer-assessee covering the years under assessment by the competent authorities. Section 6 of the OST Act authorizes the state Govt. to either grant exemption of sales tax on sales or purchases of any goods or withdraw the same. This forum in an identical case decided in case of M/s Kali Oil Mill (P) Limited in **S.A.No.2730 of 2003-04**

and **S.A. No.1406 of 2005-06** have dismissed the appeals denying sales tax incentives as claimed for w.e.f. 01.08.1999 in view of the withdrawal of such incentives vide SRO No622/99 by the Finance Department. The doctrine of promissory estoppels is not applicable under the present facts and circumstances of the case.

5. In view of the above discussion, we are of the view that the state Govt. is competent to withdraw sales tax incentives granted to the SSI Units as per Section 6 of the OST Act and as thus, the forums below are right in causing demand of tax for the years under appeal.

6. Resultantly, both the second appeals filed by the dealer-assessee are dismissed and the impugned orders of the ld.FAA are upheld.

Dictated & Corrected by me

**Sd/-**  
**(Bibekananda Bhoi)**  
**Accounts Member-I**

**Sd/-**  
**(Bibekananda Bhoi)**  
**Accounts Member-I**

**I agree,**

**Sd/-**  
**(G.C. Behera)**  
**Chairman**

**I agree,**

**Sd/-**  
**(S.K. Rout)**  
**2nd Judicial Member**