

Incentives under Pre-GST Policies continue unless Rescinded: A Significant High Court Reaffirmation of Saving Clause Protection

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1. Introduction

The transition from the erstwhile indirect tax regime to the Goods and Services Tax ("GST") framework marked one of the most significant fiscal reforms in India. While GST aimed to create a unified and streamlined indirect tax structure, the transition also generated several disputes concerning the continuity of exemptions, incentives, and industrial benefits granted under the pre-GST regime. One of the most contentious issues has been whether fiscal incentives promised under earlier industrial policies automatically lapse after GST implementation or continue unless specifically withdrawn by the Government.

In a significant and taxpayer-friendly ruling in ***Abis Exports India Pvt. Ltd. Versus State Of Chhattisgarh*** ([2026-VIL-365-CHG](#)), the Hon'ble High Court reaffirmed that incentives granted under a pre-GST industrial policy continue to remain enforceable under the saving clause contained in Section 174 of the CGST Act unless the underlying notification granting such incentives is expressly rescinded. The Court accordingly set aside the rejection order passed by the State authorities and directed reconsideration of the petitioner's claim.

The judgment assumes considerable importance for industries that established manufacturing units and made long-term investments relying upon assurances contained in industrial policies framed by State Governments prior to GST implementation. The ruling also strengthens the principles of promissory

estoppel, legitimate expectation, and continuity of vested rights despite statutory transition.

2. Factual Background and Petitioner's Submissions

The petitioner had established an industrial unit pursuant to the Agriculture and Food Processing Industrial Policy, 2012 floated by the State Government. Under the said policy, eligible industrial units were assured various fiscal incentives including subsidy relaxation and refund of Value Added Tax ("VAT") and Central Sales Tax ("CST").

However, after the enactment of the CGST Act, the aforesaid tax incentives and relaxations were allegedly discontinued and were no longer being extended to the petitioner. Aggrieved by such denial, the petitioner approached the High Court seeking continuation of the promised incentives.

The petitioner pointed out that an earlier writ petition had already been disposed of by the High Court vide order dated 14.02.2020 directing the respondent authorities to decide the pending representations submitted by the petitioner. Pursuant thereto, the Secretary, Department of Commerce and Industry, State of Chhattisgarh passed an order dated 02.08.2024 rejecting the claim of the petitioner without properly considering the proviso appended to [Section 174\(2\)\(c\)](#) of the CGST Act.

The petitioner specifically relied upon the saving provision contained under Section 174 of the CGST Act and argued that the incentive extended under the industrial policy was never withdrawn or rescinded by the State Government. Consequently, the petitioner contended that the benefit continued to survive despite the implementation of GST.

The relevant portion of Section 174(2)(c) reads as follows:

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

affect any right, privilege, obligation, or liability acquired, accrued or incurred under the repealed Acts or orders under such repealed 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."

According to the petitioner, the proviso itself clarifies that incentives would cease only if the notification granting such exemption is rescinded on or after the appointed day. Since no such rescission had taken place in the present case, the petitioner continued to possess an enforceable right to the incentives promised under the policy.

3. Arguments of the Respondent State

The State authorities defended the rejection order by contending that the enactment of the CGST Act fundamentally altered the indirect tax regime and consequently the circumstances necessitating continuation of VAT and CST-based incentives had ceased to exist.

The State attempted to justify its decision on the premise that the legislative transformation under GST permitted discontinuation of the pre-existing tax incentives even in the absence of an express rescission notification.

4. Discussion and Findings of the High Court

The High Court carefully examined the scope and effect of Section 174 of the CGST Act and rejected the interpretation adopted by the State authorities. The Court observed that a bare reading of Section 174(2)(c) clearly demonstrates

that tax exemptions granted as incentives against investment continue to remain operative unless the notification granting such benefit is specifically withdrawn or rescinded.

The Court noted that the State had failed to place even a single document on record establishing that the tax relaxation or incentive granted to the petitioner had ever been withdrawn prior to or after the appointed day. In the absence of any rescission notification, the authorities could not arbitrarily deny continuation of the promised incentives merely because GST had been implemented.

The High Court further clarified that while the main provision under Section 174(2)(c) protects rights, privileges, obligations, and liabilities acquired under repealed enactments, the proviso carves out only one limited exception - namely, where the notification granting exemption is rescinded on or after the appointed day. Therefore, unless such rescission takes place, the accrued benefit continues to survive.

The Court thus held that the rejection order dated 02.08.2024 suffered from legal infirmity and was unsustainable in law. Accordingly, the said order was quashed and the respondent authorities were directed to reconsider the petitioner's representations in light of the observations made by the Court within a period of sixty days.

5. Significance of the Saving Clause Under GST

The judgment provides important clarity regarding the role and purpose of saving clauses incorporated in transitional tax legislation. Section 174 of the CGST Act was enacted precisely to ensure that repeal of earlier enactments does not automatically extinguish accrued rights, pending obligations, or vested benefits.

The ruling reinforces the settled principle that repeal of a statute does not obliterate rights already accrued unless the legislature expressly manifests a contrary intention. In fiscal matters, particularly industrial incentive schemes, businesses often make substantial investments relying upon governmental assurances and policy commitments extending over several years.

If such incentives are withdrawn abruptly without following the mechanism prescribed under law, it would not only prejudice existing industries but would also seriously undermine investor confidence and policy credibility. The High Court's interpretation therefore preserves commercial certainty and protects legitimate expectations arising from governmental policies.

6. Promissory Estoppel and Legitimate Expectation

Although the judgment primarily turns on interpretation of Section 174, it also indirectly strengthens the doctrines of promissory estoppel and legitimate expectation in tax jurisprudence.

Industrial units frequently establish operations in backward or developing regions after evaluating fiscal incentives promised by the Government. Such incentives form an integral component of investment planning and commercial viability. Once industries alter their position and commit investments based on these representations, the Government cannot arbitrarily deny the promised benefits without expressly rescinding the underlying policy.

The judgment therefore reiterates that governmental assurances contained in industrial policies possess legal sanctity and cannot be defeated through implied administrative assumptions arising merely from tax reforms.

7. Lessons Emerging From the Judgment

The ruling carries significant implications for industries operating under legacy industrial policies across various States. Several disputes continue to arise

concerning continuation of VAT reimbursements, CST refunds, area-based exemptions, and investment-linked subsidies promised before GST implementation.

The decision clarifies that the mere introduction of GST does not automatically terminate such incentives. Unless the notification or policy granting the benefit is expressly rescinded in accordance with law, the accrued rights continue to survive under the saving clause.

The judgment also highlights the importance of careful legislative drafting and proper transitional mechanisms while implementing major tax reforms. Fiscal restructuring cannot be interpreted in a manner that defeats vested rights and long-standing governmental commitments without explicit statutory backing.

8. Conclusion

The High Court's ruling in ***Abis Exports*** represents an important reaffirmation of fiscal certainty, policy continuity, and protection of vested rights during the GST transition. By holding that incentives under pre-GST policies continue unless specifically rescinded, the Court has safeguarded legitimate business expectations and reinforced confidence in governmental industrial commitments.

At a broader level, the judgment sends a strong message that tax reforms, however comprehensive, cannot be used to defeat accrued rights through implied interpretation or administrative convenience. Transitional provisions such as Section 174 are intended precisely to ensure continuity, fairness, and stability during legislative change.

For industries that invested capital and established operations relying upon pre-GST industrial policies, the ruling offers substantial judicial reassurance that governmental promises cannot be diluted without following the procedure recognised under law.

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