



## MAJESTY LEGAL

Advocates & Solicitors

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### **SUPREME COURT:- “WHETHER DOCTRINE OF LEGITIMATE EXPECTATION APPLIES TO TAX EXEMPTIONS”**

***(KB TEA PRODUCT PVT LTD v. COMMERCIAL TAX OFFICER<sup>1</sup>)***

The Supreme Court has passed a split judgment in the matter concerning the applicability of the doctrine of legitimate expectation where a sales tax exemption granted to the appellant was stopped pursuant to the amendments made in the WBST<sup>2</sup>.

#### **HIGHLIGHTS OF THE CASE:**

- Pursuant to the section 2(17)<sup>3</sup>, after amendments the words “blending of tea” were omitted from the definition of “manufacture” in the above mentioned clause. Consequently the appellant, who enjoyed the exemption benefit from payment of sale tax under section 39<sup>4</sup> of Act, 1994 for a period of two years, was excluded from availing the said exemption.
- Although Justice Krishna Murari considered the view taken by Justice M.R. Shah that the appellant had no “vested right” in claiming exemption of sales tax after the amendment. However, Justice Murari dissented with Justice Shah on the applicability of the “Doctrine of legitimate expectation” and further held that if a legitimate expectation is being taken away by way of modifying an existing policy on grounds of public interest, such interest must be demonstrated by the said modification and a blanket bar on the invocation of legitimate expectation against a statute which is contrary to the law.

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<sup>1</sup> Civil Appeal No. 2297 of 2011

<sup>2</sup> West Bengal Sales Tax Act, 1994

<sup>3</sup> Amendments made by the West Bengal Finance Act, 2001

<sup>4</sup> Tax holiday for new small-scale industries.

<sup>5</sup> Majesty legal is a LAW FIRM established in 2013 by Ms. Mahi Yadav. Objective of the above highlights is to provide insights on law, statutes and dispensation in nature, not to be deemed as legal advice.