

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Friday, the Twenty Fourth day of February Two Thousand Seventeen
PRESENT

The Hon`ble Mr.Justice R.SUBBIAH
and

The Hon`ble Mrs.Justice J.NISHA BANU

WP(MD) Nos.3572, 3573 and 3575 of 2017
and
MP(MD)Nos.1,1 and 1 of 2015

K.C.GURUSAMY,
PARTNER M/S KAYCEE PLASTO PACKS,
S-21 SIDCO INDUSTRIAL ESTATE,
SULAKARAI, VIRUDHUNAGAR 628 003

... PETITIONER
IN WP(MD) No.3572/2017

M/S.PREMIER CAN PACKS,
REP. BY ITS PARTNER,
S-22, SIDCO INDUSTRIAL ESTATE,
SULAKARAI,
VIRUDHUNAGAR - 628 003.

... PETITIONER
IN WP(MD) No.3573/2017

M/S ESWAR POLY PACK,
REP.BY ITS PARTNER M/S SENTHILKUMARAN,
C-3, SIDCO INDUSTRIAL ESTATE,
SULAKARAI,
VIRUDHUNAGAR - 628 003

... PETITIONER
IN WP(MD) No.3575/2017

Vs

1 THE UNION OF INDIA,
REP. BY ITS SECRETARY,
MINISTRY OF FINANCE,
NEW DELHI

2 THE COMMISSIONER,
O/O THE COMMISSIONER OF CENTRAL EXCISE,
CENTRAL REVENUE BUILDINGS,
BIBIKULAM, MADURAI 2.

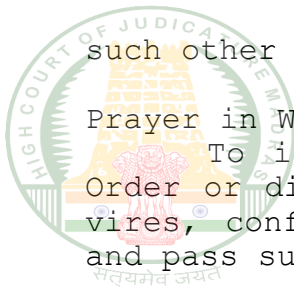
... RESPONDENTS
IN ALL THE PETITIONS

PRAYER IN WP(MD)NO.3572/2015 :

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Declaration , declare Rule 26 of the Central Excise Rules as ultra vires, confiscatory and beyond the provisions of the Central Excise Act and pass such other or further orders.

PRAYER IN WP(MD)NO.3573/2015 :

<https://hcservices.ecourts.gov.in/hcservices> Writ of Declaration, or any other appropriate Writ, Order or direction, declare Rule 26 of the Central Excise Rules as ultra vires, confiscatory and beyond the provisions of the Central Excise Act and pass



such other or further orders as this Hon'ble Court may deem fit.

Prayer in WP(MD). 3575/ 2015 :

To issue a Writ of Declaration , or any other appropriate Writ, Order or direction, declare Rule 26 of the Central Excise Rules as ultra vires, confiscatory and beyond the provisions of the Central Excise Act and pass such other or further orders.

Prayer in MP(MD)Nos. 1,1 & 1/ 2015 in WP(MD)Nos.3572,3573 & 3575/2015 :

To grant interim stay of the operation of the impugned provisions Rule 26 of the Central Excise Rules, pending disposal of the above WP.

ORDER : These petitions coming on for orders upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of M/S.S.PUSHYASEETHARAMAN, Senior Counsel Assisted for Mr.L.MURALIKRISHNAN, Advocate for the petitioner in all the petitions, Mr.S.GURUMURTHY, Advocate for R2 in all the petitions, the court made the following order:-

The learned counsel for the respondents sought for time to file counter.

Since the respondents sought for time to file counter, the learned Senior counsel for the petitioners insists for interim order.

However, the learned counsel for the respondents submitted that there need not be any interim order and the undertakes that the respondents will not proceed with the recovery proceedings for a period of two (2) weeks. The said undertaking is recorded.

Post the matter on 10/03/2017 for filing counter.

sd/-

24/02/2017

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE SECRETARY, UNION OF INDIA,
MINISTRY OF FINANCE,
NEW DELHI

2 THE COMMISSIONER,
O/O THE COMMISSIONER OF CENTRAL EXCISE,
CENTRAL REVENUE BUILDINGS, BIBIKULAM,
MADURAI 2.

+1cc to M/S.L.MURALIKRISHNAN, ADVOCATE SR.No. 10722

ORDER IN

WP(MD) Nos.3572, 3573 and
3575 of 2017 and

MP(MD)Nos.1,1 and 1 of 2015

Date :24/02/2017

TE/CM-MSA/SAR-III : 02/03/2017 : 2P/4C