

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

Thursday, the Twenty Fourth day of November Two Thousand Sixteen

PRESENT

WEB COPY

THE HON`BLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HON`BLE MRS.JUSTICE J.NISHA BANU

WP(MD) Nos.3572 ,3573 & 3575 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.3572/2015

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

... PETITIONER
IN WP(MD) NO.3573/2015

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.3575/2015

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 BOTH THE PETITIONS

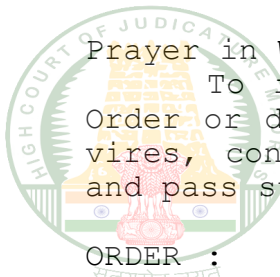
Petition praying that in the circumstances stated therein and
in the affidavit filed therewith the High Court will be pleased

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

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 as this Hon`ble Court may deem fit.

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

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 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.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit 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:-

Mrs.S.Pushyaseetharaman, learned Senior counsel assisted by Mr.L.Muralikrishnan would submit that Rule 26 of the Central Excise was challenged before the High Court at Calcutta and initially, interim order was granted and later on, final order came to be passed by allowing the Writ Petition, after taking note of the factual aspects. However, the vires, of the said rule has not been gone into. The said orders made in W.P.No.582 of 2012 dated 27.09.16 is placed before this Court.

Since vires of the Rule is challenged this Court is of the view that all the Writ petitions have to be admitted.

Accordingly all the W.ps are admitted issue notice to the respondents returnable by 16.12.16 and the respondents, who had already entered appearance are directed to file counter by 16.12.2016.

sd/-
24/11/2016

/ TRUE COPY /

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

TO

- 1 THE SECRETARY, THE UNION OF INDIA,
MINISTRY OF FINANCE, NEW DELHI
- 2 THE COMMISSIONER,
O/O THE COMMISSIONER OF CENTRAL EXCISE,
CENTRAL REVENUE BUILDINGS, BIBIKULAM,
MADURAI 2

ORDER
IN
WP(MD) No.3572 , 3573 &3575of 2015
Date :24/11/2016