IN THE HIGH COURT OF JHARKHAND AT RANCHI

T.A. No. 1 of 2022

Commissioner, Central Goods, Service Tax & Central Excise, Jamshedpur, having its office at GST Bhawan, Outer Circle Road, Bistupur, P.O. & P.S.- Bistupur, District- Singhbhum East (formerly Commissioner of Central Excise and Service Tax Jamshedpur, Division-III 143, New Baradwari, Sakchi, P.O.- Jamshedpur, District- East Singhbhum).

…. …. Appellant

Versus

Shri Krishna Laxmi Steel Udyog (P) Ltd., having its office at NS-116, Phase-VI, Adityapur Industrial Area, P.O. & P.S.- Adityapur, Jamshedpur, Jharkhand.

…. … Respondent

With

T.A. No. 2 of 2022

Commissioner, Central Goods, Service Tax & Central Excise, Jamshedpur, having its office at GST Bhawan, Outer Circle Road, Bistupur, P.O. & P.S.- Bistupur, District- East Singhbhum (formally Commissioner of Central Excise and Service Tax Jamshedpur, 143, New Baradwari, Sakchi, P.O. & P.S.- Sakchi, Jamshedpur, District- East Singhbhum).

…. …. Appellant

Versus

Shree Krishna Laxmi Steel Udyog (P) Ltd., having its office at NS-116, Phase-VI, Adityapur Industrial Area, P.O. & P.S.- Adityapur, Gamharia, P.O. & P.S.- Gamharia, Jamshedpur, Jharkhand.

…. … Respondent

With

T.A. No. 14 of 2023

Commissioner of Central Excise, Jamshedpur, at present, Outer Circle Road (Kharkai Link Road), Bistupur, P.O.& P.S.- Bistupur, Jamshedpur, earlier-143, New Baradwari, Sakchi, Jamshedpur, P.O.& P.S.- Sakchi, District- Singhbhum (East), Jharkhand.

…. Appellant

Versus

M/s Duplex Light Engineering Works, Plot No. C-65, 2nd Phase, Adityapur Industrial Area, Jamshedpur, P.O.& P.S.- Adityapur, District- Singhbhum East, Jharkhand-832109.

…. Respondent

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Appellants : Mr P.S.A. Pati, Sr. SC
Mr. Amit Kumar, Sr. SC
Mr. Anurag Vijay, Jr. SC
Mr. Vishwajeet Singh, Advocate

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05 /Dated: 16.03.2026

1. Heard learned counsel for the appellants.

2. In all these appeals, tax effect is less than rupees two crores. However, learned counsel for the appellants states that he has no instructions to withdraw these appeals.

3. Further, Mr. Pati submits that the issue involved in these appeals relates to the constitutional validity of Rule 8(3A) of the Central Excise Rules 2002 and, therefore, the matter would fall within the exception in paragraph 2(a) of Instructions dated 02.11.2023.

4. Paragraph 2(a) of Instructions dated 02.11.2023 provides that adverse judgments where the constitutional validity of the provisions of an Act or Rule are under challenge, should be contested irrespective of the amount involved.

5. In all these appeals, the issue of constitutional validity of Rule 8 (3A) of the Central Excise Rules, 2022 cannot be said to be involved. This Rule is already struck down as *ultra virus* by several High Courts, as was admitted by the learned counsel for the appellants. The Tribunal has only followed those judgments and proceeded on the premise that the Rule is *ultra virus*. Besides, as quotes under the Act, we are doubtful, whether in these appeals, we can even go into the issue of constitutional validity of the Rule in question.

6. Even so-called substantial question of law proposed by the appellants does not raise the issue of constitutional validity of Rule 8 (3A) of the Central Excise Rules 2002.

7. Accordingly, we dispose of these appeals on the ground of low tax effect by leaving the questions of law open. In terms of Instructions dated 02.11.2023, read with Instructions dated 06.08.2024, the Department is

not expected to pursue appeals where tax effect is less than rupees two crores.

(M.S. Sonak, C.J.)

(Rajesh Shankar, J.)

March 16, 2026
Ranjeet / R.Kr.
NAFR
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