



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2017

CORAM:

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THE HONOURABLE Mr.JUSTICE K.RAVICHANDRABAABU

W.P. (MD) Nos.204 to 217 of 2017

and

W.M.P. (MD) Nos.163 to 176 of 2017

A.SUBBIAH ...PETITIONER IN WP(MD) NO.204/2017
M/S.BALAJI PACKAGING INDUSTRIES
BY ITS PARTNER K.RAVICHANDRAN.
...PETITIONER IN WP(MD) . 205/ 2017
M/S.BALAJI CARTONS
BY ITS PARTNER A. SUBBIAH ...PETITIONER IN WP(MD) . 206/ 2017
M/S.BALAJI INDA PACK
BY ITS PROPRIETRIX
SMT R. RUKMANI. ...PETITIONER IN WP(MD) . 207/ 2017
M/S.K.R.K.PACKAGINGS
BY ITS PROPRIETOR
K.RAVICHANDRAN. ...PETITIONER IN WP(MD) . 208/ 2017
M/S.SRI HARI PACK
BY ITS PROPRIETOR
S. RAJATHILAGAR ...PETITIONER IN WP(MD) . 209/ 2017
M/S.BALAJI PACK
BY ITS PARTNER K.RAVICHANDRAN... PETITIONER IN WP(MD) . 210/ 2017
M/S.SRI BALAJI PACK TECH
BY ITS PROPRIETOR V.NAGARAJ. ...PETITIONER IN WP(MD) . 211/ 2017
M/S.SRI ANDAL PACKAGINGS
BY ITS PROPRIETOR K.KANAGARAJ. ...PETITIONER IN WP(MD) . 212/ 2017
M/S.SRI PATHMAVATHI PACKS
BY ITS PROPRIETRIX
SMT. N.DEVAKI ...PETITIONER IN WP(MD) . 213/ 2017
M/S.SRI ESWARI PACK
BY ITS PROPRIETOR K.GOPI. ...PETITIONER IN WP(MD) . 214/ 2017
V.NAGARAJ PROPRIETOR
M/S.SRI BALAJI PACK TECH ...PETITIONER IN WP(MD) . 215/ 2017



K.RAVICHANDRAN, PROPRIETOR
M/S.KRK PACKAGINGS

... PETITIONER IN WP(MD). 216/ 2017

R.KASI VISWANATHAN, MANAGER,
M/S.BALAJI PACKAGING INDUSTRIES,

...PETITIONER IN WP(MD).217/ 2017

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Vs.

THE COMMISSIONER OF CENTRAL EXCISE,
OFFICE OF THE COMMISSIONER OF CENTRAL EXCISE,
CENTRAL REVENUE BUILDING, NGO - A COLONY,
TIRUNELVELI 627 007.

... RESPONDENT IN ALL WPS

COMMON PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, call for the records in Original No.51/COMMR/CE/2016, dated 13.07.2016 passed by the respondent herein and to quash the same insofar as the said order concerns the petitioner herein and passed in total violation to the principles of natural justice, without jurisdiction and against the provisions of law.

For Petitioner : Mr.AR.L.Sundaresan, Senior Counsel
for N.Viswanathan in all WPs.
For Respondent : Mr.R.Nandakumar
Standing Counsel in all WPs.

COMMON ORDER

All these Writ petitions are filed challenging the order in original dated 13.07.2016 passed by the respondent.

2.Heard Mr.AR.L.Sundaresn, learned Senior Counsel appearing for the petitioners and perused the materials placed before this Court.

3.The learned Senior Counsel appearing for the petitioners vehemently contended that the respondent erred in passing the impugned orders by imposing penalty under Rule 26 of the Central Exercise Rule, 2002 to the petitioners, when actually such a Rule is not applicable to the present facts and circumstances of the case.

4.Though the learned Senior Counsel sought to justify the maintainability of the Writ petitions by raising all grounds on merits of the matter, I don't think that this Court can entertain these Writ petitions arising out of the order in original passed by the respondent, when admittedly a statutory remedy by way of an appeal before the Appellate Authority is provided under the relevant enactment.



5.It is not the case of the petitioners that the authority, who passed the present impugned order, is without jurisdiction or that these petitioners were not put on notice. It seen that these petitioners have in fact approached the Settlement Commission and after contest, the Settlement Commission refused to interfere with the matter and remitted the matter back to the Adjudicating Authority for passing the order of adjudication. Thereafter, the adjudication order came to be passed after considering the reply of the petitioners. Therefore, this Court is of the view that only remedy left open to the petitioners is to approach the Appellate Authority by way of filing regular appeal.

6.In view of the above, these Writ petitions are dismissed only on the ground of maintainability without going into the merits of the matter, however, with liberty to the petitioners to approach the Appellate Authority and file regular appeal within a period of 4 weeks from the date of receipt of a copy of this order. If any such appeals are filed, it is for the Appellate Authority to consider the same on its own merits and in accordance with law without reference to the delay if any in filing such appeals. No costs. Consequently, connected W.M.Ps.are closed.

Sd/
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar.

To

The Commissioner of Central Excise,
Office of the Commissioner of Central Excise,
Central Revenue Building, NGO - A Colony,
Tirunelveli 627 007.

+14CC to M/S.N.Viswanathan, Advocate, SR.No. 1113 to 1126
+13CC to M/S.R.Nandakumar, Advocate, SR.No. 2081

W.P. (MD) Nos.204 to 217 of 2017
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