

\$~37, 39, 41, 42, 43 & 44

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P. (C) 4633/2014**

CENTURY PLYBOARDS INDIA LIMITED Petitioner

versus

UNION OF INDIA & OTHERS Respondents

W.P. (C) 4885/2014

ASHOK LEYLAND LTD Petitioner

versus

UNION OF INDIA & ORS. Respondent

W.P. (C) 4969/2014

AUTOMOTIVE TYRE MANUFACTURERS ASSOCIATION.. Petitioner

versus

UNION OF INDIA & ANR. Respondents

W.P. (C) 5228/2014

CHINA PLASTICS MACHINERY INDUSTRY ASSOCIATION
..... Petitioner

versus

UNION OF INDIA, MINISTRY OF FINANCE, THROUGH:
SECRETARY, DEPARTMENT OF REVENUE & ORS. Respondents

W.P. (C) 5265/2014

SHAH TC OVERSEAS PVT LTD Petitioner

versus

UNION OF INDIA THROUGH: SECREATARY
MINISTRY OF FINANCE & ORS. Respondents

W.P. (C) 9407/2014

HUAWEI TELECOMMUNICATIONS (INDIA) COMPANY PVT. LTD.
..... Petitioner

versus

UNION OF INDIA AND ORS. Respondents

Appearance: Mr. S. Seetharaman with Mr. Ankur Sharma and
Mr. Dharpan Bhuyan, Advocates for petitioners in
W.P.(C)4633 & 4885/2014 (Items-37 & 39).

Mr. Sparsh Bhargava, Mr. Shashi Mathews, Mr. Ankit
Sachdeva and Ms. Rachna Yadav, Advocates for petitioners
in W.P.(C) 4969/2014 (Item-41).

Mr. Ratheesh M., Advocate for petitioners in
W.P.(C)5228/2014 & 5265/2014 (Items-42&43).

Mr. Sanjeev Goel with Mr. Devashish Bharuka, Mrs. Jaya Bharuka, Mr. Ravi Bharuka, Ms. Arpita Bishnoi, Ms. Anu Tyagi and Ms. Jennifer Rohita, Advocates for petitioners in W.P.(C)9407/2014 (Item-44).

Mr. Sandeep Sethi, Sr. Advocate with Ms. Reena Khair, Mr. Rajesh Sharma, Ms. Rita Jha and Ms. Shreya Dahiya, Advocates for respondents in all matters.

Mr. Amit Mahajan, CGSC for UOI in W.P.(C)4633/2014, 4885/2014 & 9407/2014 (Items-37, 39 & 44).

Mr. Rajesh Gogna, CGSC for Resp-1&2 in W.P.(C) 5265/2014 (Item-43).

Mr. Sanjeev Narula, CGSC for UOI with Mr. Abhishek Ghai, Advocate in W.P.(C)4969/2014 (Item-41).

Mr. Sanjeev Narula, Sr. Standing Counsel for Customs Department with Mr. Abhishek Ghai, Advocate in W.P.(C)5228/2014 & 9407/2014 (Items-42&44).

Mr. Ripu Daman Bhardwaj, CGSC with Mr. T.P. Singh, Advocate for Resp-1&2/UOI in W.P.(C)5228/2014 (Item-42).

Mr. Amit Bansal with Mr. Akhil Kulshreshtha and Ms. Seema Dolo, Advocates for Resp-1 in W.P.(C)4633/2014 (Item-37).

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

01.03.2017

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It is pointed out by counsel for the parties that the dispute in question - which pertains to the extension of duty upon initiation of sunset review under Section 9A (5), second proviso of the Customs Tariff Act, 1975, i.e., levy in respect of Phenol vide notification dated 12.11.2013, front axle and steering knuckles vide notification dated 23.07.2014, Nylon Tyre Cord Fabric vide Notification dated 16.05.2014, plastic processing machine vide Notification dated 19.06.2014 and Vitamin C vide W.P.(C) 4633, 4885, 4969, 5228, 5265 & 9407/2014

notification dated 23.07.2014, are covered by the previous ruling of this Court in *Kumho Petrochemicals Co. Ltd. v. Union of India & Ors.*, 2014 (306) ELT 3 (Del.).

In light of the said decision, the writ petitions have to succeed. However, at the same time, this Court is conscious of the fact that the said judgment is pending appeal in an SLP - preferred by the Central Government - (SLP no.29268-29269/2014) *Union of India v. M/s Kumho Petrochemicals Pvt. Ltd.*

In the circumstances, the parties agreed that these writ petitions can be disposed of with the direction that the final outcome of the SLP would govern these proceedings. In case the Supreme Court upholds the decision of this Court in *Kumho (supra)*, the writ petitioners shall be entitled to the same relief. In the other eventuality, the petitioners shall not be entitled to anything. The writ petitions are accordingly disposed of.

S. RAVINDRA BHAT, J

NAJMI WAZIRI, J

MARCH 01, 2017
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