



WP Nos.19085 of 2000 etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP Nos.19085, 19086, 19087 and 19088 of 2000

M/s.Sundaram Fasteners Ltd.

Harits, Hosur - 635 109

: Petitioner in the above writ petitions

versus

1.The Union of India

Rep. By the Secretary

Ministry of Finance,

New Delhi 110001

2.The Central Board of Excise & Customs,

Ministry of Finance, Government of India

New Delhi 110 001

3.The Commissioner of Central Excise (Appeals),

121, Uttamar Gandhi Salai,

Nungambakkam, Chennai 34

4.The Assistant Commissioner of Central Excise

Hosur II Division, 67/A, SIPCOT

Hosur 635 126.

: Respondents in the above writ petitions

Prayer: WP No.19085/2000 filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for entire records leading to the passing of the impugned order to the 3rd Respondent in A.No.59/2000 (M-III) Order-in-Appeal No.99/2000 dt.02.08.2000 and quash the same.



WP Nos.19085 of 2000 etc.

WP No.19086/2000 filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration to declare Section 112 of the Finance Act 2000 as ultra vires Articles 14, 19(1)(g) and 265 of the Constitution of India and declare the same as being beyond the legislative competence of Parliament insofar as the petitioner is concerned.

WP No.19087/2000 filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the entire records leading to the passing of the impugned order in A.No.105/2000 (M-III) (Old A.No.118/99 (M-III) Order-in-Appeal No.95/2000 dated 19.07.2000 and quash the same.

WP No.19088 of 2000 filed Article 226 of the Constitution of India for issuance of a Writ of Declaration to declare Section 112 of the Finance Act 2000 as ultra vires Articles 14, 19(1)(g) and 265 of the Constitution of India and declare the same as being beyond the legislative competence of Parliament insofar as the petitioner is concerned.

For Petitioner : Mr.P.R.Renganath
for Mr.R.Raghavan

For Respondent No.1 : Mr.Prasad Vijayakumar

For Respondents 2 to 4 : Mr.A.P.Srinivas, SSC

COMMON ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.P.R.Renganath, learned counsel for the petitioner, Mr.Prasad Vijayakumar, learned counsel for the first respondent and Mr.A.P.Srinivas, learned counsel for respondents 2 to 4.



WP Nos.19085 of 2000 etc.

2. The writ petitions assail the amendment brought about by Section 112 of the Finance Act, 2000.

3. The amendment brought about and the subject-matter of challenge in the writ petitions herein was also subject-matter of consideration with three other High Courts.

4. In the case of **Shree Cement Ltd vs. Union of India, [2003(160) ELT 42 (Raj.)]**, Division Bench of the Rajasthan High Court upheld the constitutional validity of Section 112 of the Finance Act, 2000. The said Section was enacted to validate the credit of duty paid on HSD oil from 16.03.1995. The same was held to be *intra vires* the Constitution.

5. Similar view was taken by learned Single Judge of the Karnataka High Court in the case of **Kanoria Industries Ltd vs. Union of India [2005(190) ELT 295 (Kar.)]**. Division Bench of the Allahabad High Court in the case of **Flex Industries Ltd vs. Union of India [2010 (256) ELT 75 (All)]** also upheld the said amendment and held it to be *intra vires* the Constitution.



WP Nos.19085 of 2000 etc.

6. The Apex Court in the case of **Sangam Spinners Ltd vs. Union of India [2011 (266) ELT 145 (SC)]** decided the question on merits as to the entitlement of the duty paid on HSD oil and held in favour of the Revenue.

7. In light of the authoritative pronouncements as referred to above, the challenge to the provision and all the consequential orders passed, fails. The writ petitions as such are dismissed. There shall be no order as to costs. Consequently, WMP Nos.27653 to 27656 of 2000 are closed.

(S.V.G., CJ.)

(D.B.C., J.)

20.03.2024

Index : Yes/No
Neutral Citation : Yes/No
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To

WEB COPY

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