

WP(MD). No.5582 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 09/04/2025

CORAM

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE P.B.BALAI

W.P.(MD)No.5582 of 2019 and 15737 and 15744 of 2019

and WMP(MD) Nos.4407 and 4408 of 2019,

12464 and 12474 of 2019

WP(MD) No.5582 of 2019

M/s Eastman Spinning Mills (P) Ltd.,
Through its Authorized Signatory
Nachimuthu Chandran

... Petitioner

Vs

1. Union of India,
Rep. by The Secretary,
Ministry of Finance, (Department of Revenue),
No.137, North Block,
New Delhi-110 001.

2. Union of India,,
Rep. by the Secretary,
Ministry of Law & Justice,
4th Floor, A Wing, Rajendra Prasad Rd,
Shastri Bhavan, New Delhi - 110 001.



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3. Assistant Commissioner of GST & Central Excise,
Audit Circle, Madurai,
Central Revenue Buildings, Bibikulam,
Madurai-625 002..

... Respondents

PRAYER :-Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, direction against the respondents to declare Impugned Notifications 15/2017-ST and 16/2017-ST dated April 13, 2017 as lacking legislative competency, ultra vires to the Finance Act, 1994 and hence null and void and consequently to call for the records of the 3rd respondent pertaining to Show Cause Notice numbered as Notice No.20/2018-ST dated August 10, 2018 issued by the 3rd Respondent proposing to levy service tax on ocean freight along with interest and penalty and quash the same and direct the respondents to refund the service tax of Rs.15,20,661 paid under protest by the petitioner.

For Petitioner : Mr.P.B.Harish

For Respondents : Mr.Malaiyendran for R1 & R2

Mr.K.Govindarajan for R3

Deputy Solicitor General assisted by

Mr.R.Nandakumar

W.P.(MD)No.15737 of 2019:

M/s.Southern Petrochemicals Industries Corporation Limited,
Represented by its Chief Financial Officer,
KR Anandan,
SPIC Nagar,
Tuticorin – 628 005.

... Petitioner

Vs

1.The Union of India,
Represented by its Secretary,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi.



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2.The Commissioner of GST & Central Excise,
Coimbatore Audit Commissionerate,
Office of the Commissioner of GST & Central Excise,
Coimbatore Audit Commissionerate,
No/6/7 ATD Street Race Course Road,
Coimbatore 641 018

3.The Commissioner of GST & Central Excise,
Madurai Commissionerate,
Central Revenue Buildings, Bibikulam,
Madurai-625 002..

... Respondents

PRAYER :-Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration, declaring Notifications No.14/2017, 15/2017 and 16/2017 dated 13/04/2017 issued by the 1st respondent under the service Tax regime as ultra vires as the said Notifications traverse beyond the scope of Sections 64(3) , 65B(44), 66D(e) and 68(2) of the Finance Act, 1994 and thereby offending Articles 14 and 19(1) (g), of the Constitution of India.

For Petitioner	: Mr.S.Muthuvenkataraman
For Respondents	: Mr.K.Govindarajan for R1 to R3 Deputy Solicitor General

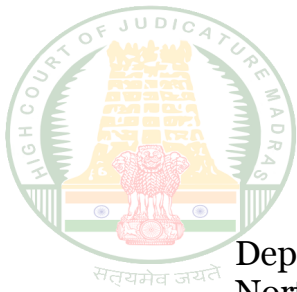
W.P.(MD)No.15744 of 2019:

M/s.Southern Petrochemicals Industries Corporation Limited,
Represented by its Chief Financial Officer,
KR Anandan,
SPIC Nagar,
Tuticorin – 628 005.

... Petitioner

Vs

1.The Union of India,
Represented by its Secretary,
Ministry of Finance,



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Department of Revenue,
North Block, New Delhi.

2.The Commissioner of GST & Central Excise,
Coimbatore Audit Commissionerate,
Office of the Commissioner of GST & Central Excise,
Coimbatore Audit Commissionerate,
No/6/7 ATD Street Race Course Road,
Coimbatore 641 018

3.The Commissioner of GST & Central Excise,
Madurai Commissionerate,
Central Revenue Buildings, Bibikulam,
Madurai-625 002..

... Respondents

PRAYER :-Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in File No.C.No.III / 10 / 32 / 2018 - Commr.(Audit) comprising of Show Cause Notice in SCN S1.No.11/2019 (Commr) dated 30/04/2019 issued by the 2nd respondent and to quash the same as illegal, arbitrary, unconstitutional, violation of the principles of natural justice.

For Petitioner	: Mr.S.Muthuvenkataraman
For Respondents	: Mr.K.Govindarajan for R1 and R2 Deputy Solicitor General Mr.C.Nandagopal for R3

COMMON ORDER

(Order of the Court was made by
the Hon'ble the Chief Justice)

Counsels state that the issue in these matters is covered by a judgment of the Gujarat High Court in ***Sal Steels Limited v. Union of India***¹.

¹ 2020 (37) GSTL 3 (Guj)



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2. Counsels also state that notice has been issued by the Apex Court in an SLP, being SLP (Civil Appeal) Diary No.27016/2020, filed by the Revenue impugning *Sal Steels Limited* (supra) and there is no stay.

3. Learned counsels sought refund of the amounts paid.

4. In response, learned Deputy Solicitor General submitted that Delhi High Court and Allahabad High Court in *Pace Setters Business Solutions Pvt. Ltd v. Union of India and others*² and *M/s.R.C.Infra Digital Solutions Thru. Authorised Representative Mr.Ashish Kumar v. Union of India and others*³, respectively, have taken a view, contrary to *Sal Steels Limited* (supra).

5. In view thereof, learned Deputy Solicitor General submits refund may not be granted now and let that be subject to the outcome of the SLP in *Sal Steel*.

6. Counsel for petitioners state no objection.

² 2024 DHC 2638 DB

³ 2024 AHC LKO 1097 DB



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7. Therefore, reserving petitioners' right to claim refund based on the outcome of the SLP as against the judgment in *Sal Steels Limited* (supra), we dispose these petitions. There shall be no order as to costs. Consequently connected Miscellaneous Petitions stand closed.

(K.R.SHRIRAM, C.J.)

(P.B.BALAJI, J.)

09.04.2025

NCC : Yes/No
Index : Yes/No

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THE HON'BLE CHIEF JUSTICE

AND

P.B.BALAJI, J.

RR

**ORDER
IN**

WP(MD) Nos.5582, 15737 and 15744 of 2019

Date : 09/04/2025