$~20-34

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

Date of decision: 12th September 2025

\+ **W.P.(C) 11751/2023**

M/S IG PETROCHEMICALS LIMITED

.....Petitioner

Through: Mr. Rajesh Sharma and Mr. Nikhil Sharma, Advs.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Dipak Raj and Mr. Subham Kumar, Advs. for Mr. Anurag Ojha, SSC.

Dr. B. Ramaswamy, Adv. for CGSC.

21 WITH

\+ **W.P.(C) 11752/2023**

M/S AUTOMOTIVE TYRE MANUFACTURERS ASSOCIATION

.....Petitioner

Through: Mr. Rajesh Sharma and Mr. Nikhil Sharma, Advs.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Dipak Raj and Mr. Subham Kumar, Advs. for Mr. Anurag Ojha, SSC.

Ms. Pratima N. Lakra, Mr. Shailendra Kumar Mishra and Mr. Chandan Prajapati, Ms. Kanchan Shakya & Ms. Priyam Sharma, Advs. for UOI.

22 WITH

\+ **W.P.(C) 11753/2023**

M/S NOCIL LIMITED

.....Petitioner

Through: Mr. Rajesh Sharma and Mr. Nikhil

Sharma, Advs.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Dipak Raj and Mr. Subham Kumar, Advs. for Mr. Anurag Ojha, SSC.
Ms. Pratima N. Lakra, Mr. Shailendra Kumar Mishra and Mr. Chandan Prajapati, Ms. Kanchan Shakya & Ms. Priyam Sharma, Advs. for UOI.

23 WITH

\+ **W.P.(C) 11754/2023**

M/S OWENS-COMING (INDIA) PRIVATE LIMITED

.....Petitioner

Through: Mr. Rajesh Sharma and Mr. Nikhil Sharma, Advs.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Dipak Raj and Mr. Subham Kumar, Advs. for Mr. Anurag Ojha, SSC.

24 WITH

\+ **W.P.(C) 11763/2023**

M/S JINDAL STAINLESS LIMITED

.....Petitioner

Through: Mr. Rajesh Sharma and Mr. Nikhil Sharma, Advs.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Dipak Raj and Mr. Subham Kumar, Advs. for Mr. Anurag Ojha, SSC.

25 WITH

\+ **W.P.(C) 11765/2023**

M/S FORUM OF ACRYLIC FIBRE MANUFACTURES

.....Petitioner

Through: Mr. Rajesh Sharma and Mr. Nikhil Sharma, Advs.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Dipak Raj and Mr. Subham Kumar, Advs. for Mr. Anurag Ojha, SSC.

Dr. B. Ramaswamy, Adv. for CGSC.

26 WITH

\+ **W.P.(C) 11766/2023**

M/S ASSOCIATION OF CHLOROMETHANES MANUFACTURERS

.....Petitioner

Through: Mr. Rajesh Sharma and Mr. Nikhil Sharma, Advs.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Dipak Raj and Mr. Subham Kumar, Advs. for Mr. Anurag Ojha, SSC.

27 WITH

\+ **W.P.(C) 11771/2023**

M/S DEEPAK PHENOLICS LIMITED

.....Petitioner

Through: Mr. Rajesh Sharma and Mr. Nikhil Sharma, Advs.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Vinay Yadav SPC MS Kamna Behrani, Mr. Ansh Kalra, Mr. Divyanshu Sinha, Advs. (M: 9109698880)

Mr. Dipak Raj and Mr. Subham Kumar, Advs. for Mr. Anurag Ojha, SSC.

28 WITH

\+ **W.P.(C) 11773/2023**

M/S APCOTEX INDUSTRIES LIMITED

.....Petitioner

Through: Mr. Rajesh Sharma and Mr. Nikhil Sharma, Advs.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Vinay Yadav SPC MS Kamna Behrani, Mr. Ansh Kalra, Mr. Divyanshu Sinha, Advs.
Mr. Dipak Raj and Mr. Subham Kumar, Advs. for Mr. Anurag Ojha, SSC.

29 WITH

\+ **W.P.(C) 11776/2023**

M/S THIRUMALAI CHEMICALS LIMITED

.....Petitioner

Through: Mr. Rajesh Sharma and Mr. Nikhil Sharma, Advs.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Vinay Yadav SPC MS Kamna Behrani, Mr. Ansh Kalra, Mr. Divyanshu Sinha, Advs.
Mr. Dipak Raj and Mr. Subham Kumar, Advs. for Mr. Anurag Ojha, SSC.

30 WITH

\+ **W.P.(C) 11777/2023**

M/S BAJAJ HEALTHCARE LIMITED

.....Petitioner

Through: Mr. Rajesh Sharma and Mr. Nikhil Sharma, Advs.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Dipak Raj and Mr. Subham Kumar, Advs. for Mr. Anurag Ojha, SSC.
Ms. Pratima N. Lakra, Mr. Shailendra Kumar Mishra Mr. Chandan Prajapati, Ms. Kanchan Shakya & Ms. Priyam Sharma, Advs. for UOI.

31 WITH

\+ **W.P.(C) 11805/2023**

M/S UI VR PVT. LTD.

.....Petitioner

Through: Mr. Rajesh Sharma and Mr. Nikhil Sharma, Advs.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Dipak Raj and Mr. Subham Kumar, Advs. for Mr. Anurag Ojha, SSC.
Ms. Pratima N. Lakra, Mr. Shailendra Kumar Mishra, Mr. Chandan Prajapati, Ms. Kanchan Shakya & Ms. Priyam Sharma, Advs. for UOI.
Dr. B. Ramaswamy, Adv. for CGSC.

32 WITH

\+ **W.P.(C) 11967/2023**

M/S J K PAPER LTD.

.....Petitioner

Through: Mr. Rajesh Sharma and Mr. Nikhil Sharma, Advs.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Dipak Raj and Mr. Subham Kumar, Advs. for Mr. Anurag Ojha, SSC.

Dr. B. Ramaswamy, Adv. for CGSC.

33 WITH

+ **W.P.(C) 11973/2023**

M/S ALKALI MANUFACTURERS ASSOCIATION OF INDIA

.....Petitioner

Through: Mr. Rajesh Sharma and Mr. Nikhil Sharma, Advs.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Dipak Raj and Mr. Subham Kumar, Advs. for Mr. Anurag Ojha, SSC.

Dr. B. Ramaswamy, Adv. for CGSC.

34 AND

+ **W.P.(C) 11981/2023**

M/S AUROBINDO PHARMA LIMITED

.....Petitioner

Through: Mr. Rajesh Sharma and Mr. Nikhil Sharma, Advs.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Dipak Raj and Mr. Subham Kumar, Advs. for Mr. Anurag Ojha, SSC.

Dr. B. Ramaswamy, Adv. for CGSC.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

2. These petitions challenge the amendments brought about in the Customs Tariff Provisions *i.e.,* Sections 9, 9A and 9C of the Customs Tariff Act, 1975 *vide* Section 134 of the Finance Act, 2023, as being *ultra vires.*

3. Section 134 of the Finance Act, 2023 reads as under:

> *"134. In the Customs Tariff Act, 1975, (hereinafter referred to as the Customs Tariff Act), with effect from the 1st day of January, 1995,*
> *(i) in section 9,-*
> *(a) in sub-section (6), in the first proviso, for the words "in a review", the words "on consideration of a review" shall be substituted;*
> *(b) in sub-section (7), the words "and determined" shall be omitted;*
> *(ii) in section 9 A,-*
> *(a) in sub-section (5), in the first proviso, for the words "in a review", the words "on consideration of a review" shall be substituted;*
> *(b) in sub-section (6), the words "and determined" shall be omitted;*
> *(iii) in section 9C,-*
> *(a) in sub-section (1), the words "order of' shall be omitted;*
> *(b) in sub-section (2), for the word "order" the words "determination or review" shall be substituted;*
> *(c) in sub-section (3), for the word "order", the words "determination or review" shall be substituted;*
> *(d) after sub-section (5), the following Explanation shall be inserted, namely:- Explanation.-For the purposes of this section, "determination" or "review" means the determination or review done in such manner as may be specified in the rules made under sections 8B, 9, 9A and 9B."*

4. A comparative chart of the provisions which were amended in contrast with the unamended provisions is set out below:

Section 9C Of CTA Pre-Amendment	Section 9C Of CTA Post-Amendment
Appeal. — [(1) An appeal against the order of determination or review thereof shall lie to the Customs, Excise and Service Tax Appellate Tribunal constituted under section 129 of the Customs Act, 1962 (52 of 1962) (hereinafter referred to as the Appellate Tribunal), in respect of the existence, degree and effect of — *(i) any subsidy or dumping in relation to import of any article; or* *(ii) import of any article into India in such increased quantities and under such condition so as to cause or threatening to cause serious injury to domestic industry requiring imposition of safeguard duty in relation to import of that article.]*	*Appeal. — [(1) An appeal against the ~~order of~~ determination or review thereof shall lie to the Customs, Excise and Service Tax Appellate Tribunal constituted under section 129 of the Customs Act, 1962 (52 of 1962) (hereinafter referred to as the Appellate Tribunal), in respect of the existence, degree and effect of —* *(i) any subsidy or dumping in relation to import of any article; or* *(ii) import of any article into India in such increased quantities and under such condition so as to cause or threatening to cause serious injury to domestic industry requiring imposition of safeguard duty in relation to import of that article.]*
[(1A) An appeal under sub-section (1) shall be accompanied by a fee of fifteen thousand rupees.	*[(1A) An appeal under sub-section (1) shall be accompanied by a fee of fifteen thousand rupees.*
(1B) Every application made before the Appellate Tribunal, — *(a) in an appeal under sub-section (1), for grant of stay or for rectification of mistake or for any other purpose; or* *(b) for restoration of an appeal or an application, shall be accompanied by a fee of five hundred rupees.].*	*(1B) Every application made before the Appellate Tribunal, —* *(a) in an appeal under sub-section (1), for grant of stay or for rectification of mistake or for any other purpose; or* *(b) for restoration of an appeal or an application, shall be accompanied by a fee of five hundred rupees.].*
(2) Every appeal under this section shall be filed within ninety days of the date of order under appeal:	*(2) Every appeal under this section shall be filed within ninety days of the date of ~~**order**~~ **determination or review** under appeal:*

Provided that the Appellate Tribunal may entertain any appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.	*Provided that the Appellate Tribunal may entertain any appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.*
(3) The Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the order appealed against.	*(3) The Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the ~~**order**~~ **determination or review** appealed against.*
(4) The provisions of sub-sections (1), (2), (5) and (6) of section 129C of the Customs Act, 1962 (52 of 1962) shall apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its functions under the Customs Act, 1962 (52 of 1962).	*(4) The provisions of sub-sections (1), (2), (5) and (6) of section 129C of the Customs Act, 1962 (52 of 1962) shall apply to the Appellate Tribunal in the discharge of its functions under this Act as they apply to it in the discharge of its functions under the Customs Act, 1962 (52 of 1962).*
(5) Every appeal under sub-section (1) shall be heard by a Special Bench constituted by the President of the Appellate Tribunal for hearing such appeals and such Bench shall consist of the President and not less than two members and shall include one judicial member and one technical member.]	*(5) Every appeal under sub-section (1) shall be heard by a Special Bench constituted by the President of the Appellate Tribunal for hearing such appeals and such Bench shall consist of the President and not less than two members and shall include one judicial member and one technical member.]* ***Explanation - For the purpose of this section determination or review means the determination or review done in such manner as may be specified in the rules made under section 8B, 9, 9A and 9B."***

5. The Petitioners were aggrieved by this amendment as according to them, the substantive rights of the Petitioners to challenge the notifications were being taken away.

6. Ld. Counsel for the Petitioners submits that recently, the Customs Excise

and Service Tax Appellate Tribunal (hereinafter, '*CESTAT*') in its order dated 26th August, 2025, in ***Anti Dumping Appeal No. 53193/2023*** titled '***Essilorluxottica Asia Pacific Pte Ltd. (Formerly known as Essilor Amera Pte Ltd.) v. Designated Authority, Directorate General of Trade Remedies and Ors.***', has held as under:

> *"79. It is in the context of the un-amended provisions of sub-sections (1) and (6) of section 9A of the Customs Tariff Act that the aforesaid observations were made by the Supreme Court in Tata Chemicals (2). After the amendment made by section 134 of the Finance Act, 2023, the determination or review is only by the designated authority and it is against this determination or review that an appeal would lie to the Tribunal under section 9C of the Customs Tariff Act.*
> *80. What, therefore, follows from the above discussion is that:*
>
> *(i) Section 134 of the Finance Act, 2023 has not come into force since the Central Government has not issued any notification as contemplated under section 1(2)(b) to bring into force the said section. Consequently, the amendment to sections 9A and 9C of the Customs Tariff Act by section 134 of the Finance Act have not come into force. An appeal would, therefore, lie to this Tribunal under section 9C of the Customs Tariff Act under the existing provisions of the Customs Tariff Act against the final findings dated 29.09.2022 of the designated authority published in the Gazette of India-Extra Ordinary on 29.09.2022 and the consequential notification dated 27.12.2022 published in the Gazette of India-Extra Ordinary on 27.12.2022 imposing anti-dumping duty; and*
> *(ii) The contention advanced by the learned*

> *counsel for the appellant that even if a notification as contemplated under section 1(2)(b) of the Finance Act, 2023 is now issued to bring section 134 of the Finance Act, 2023 into force, the Tribunal would still continue to have jurisdiction to entertain an appeal against the notification issued by the Central Government imposing anti-dumping duty, as it had before, to hear appeals under section 9C of the Customs Tariff Act cannot be accepted.*
>
> *81. As noticed above, the Central Government has not issued any notification contemplated under section 1(2)(b) of the Finance Act, 2023 and, therefore, section 134 of the Finance Act has not come into force. This appeal is, therefore, maintainable before the Tribunal."*

7. In effect, the finding of CESTAT is that Section 134 of the Finance Act, 2023 has not been notified under Section 1(2)(b) of the Finance Act, 2023 to bring into force the said Section 134 of the Finance Act, 2023. In view thereof, the CESTAT has held the said appeal to be maintainable before CESTAT. The finding being that Section 134 of the Finance Act, 2023 has not been notified, the amended Sections 9, 9A and 9C of the Customs Tariff Act, 1975 have therefore not come into effect.

8. Ld. Counsel for the Petitioner submits that in view of this order dated 26th August, 2025 of CESTAT, the Petitioners do not wish to press the present petitions. However, if the position changes, they may be given liberty to revive the present petition.

9. The above mentioned position as to the notification, is not contested by ld. Counsel for the Respondent.

10. In view of the above, the present petitions are disposed of as infructuous.

11. The Court has not examined the merits of the challenge in these writ

petitions. The same would be examined in an appropriate case if the need arises.

12. Liberty is granted to revive the present petitions if the position as set out above in respect of the notification of Section 134 of the Finance Act, 2023, changes.

13. All petitions are disposed of in the above terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

SEPTEMBER 12, 2025
Rahul/ck