

W.P.(MD)No.26461 of 2025

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**Reserved on : 27.11.2025**

**Pronounced on : 01.06.2026**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P.(MD)No.26461 of 2025**

**and**

**W.M.P.(MD)No.20541 of 2025**

M/s.Renganathan & Sons,  
Represented by its Managing Partner,  
R.Jeganathan.

... Petitioner

Vs.

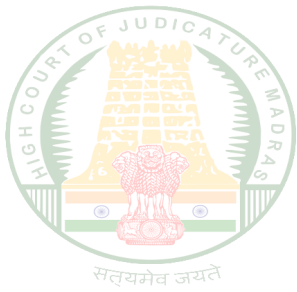
Assistant Commissioner of GST & Central Excise,  
Thanjavur Division,  
No.1, Ponnagar, Medical College Road,  
Thanjavur – 613 007.

... Respondent

**Prayer:** Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the records on the file of the respondent in GSTIN No.33AAAFR5312G1ZP and quash the impugned order in Original No.08/2025- GST dated 13.02.2025 passed by the respondent for the financial year 2020-21 as illegal and without jurisdiction.

For Petitioner : Mr.R.Sivaraman

For Respondent : Mr.R.Gowri Shankar



W.P.(MD)No.26461 of 2025

## **ORDER**

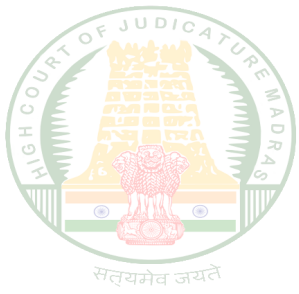
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The petitioner is a registered partnership firm. It is engaged in tobacco business. The petitioner contended that since the product sold by them had not undergone any manufacturing process so as to change the character of the raw material, they classified their product under chapter heading 24039990 and filed returns accordingly and paid compensation cess at the rate of 96%. This was not acceptable to the department. The jurisdictional Assistant Commissioner called upon the petitioner to re-classify their product under the chapter heading 24039910 and pay enhanced compensation cess. The final order was passed on 13.02.2025 by the respondent in the following terms:-

*“14.In view of the above discussion and findings, I pass the following order:*

### **ORDER**

*(i) I order that the final product manufactured and cleared by M/s. R.Renganathan & Sons, No.68, Nagai Road, Tiruvarur 610001, during the period from April 2020 to March 2021 is rightly classifiable under chapter heading HSN 2403 99 10 of CGST Act, 2017 for the purpose of payment of Compensation Cess under Central Goods and Services (Compensation to States) Act. 2017;*



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W.P.(MD)No.26461 of 2025

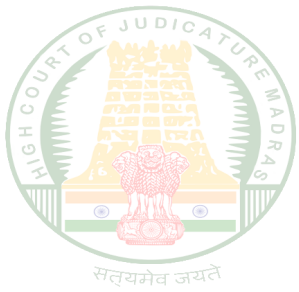
*(ii) I confirm the demand of Rs.1,31,98,398/- (Rupees One Crore Thirty One Lakhs Ninety Eight Thousand Three Hundred and Ninety Eight only) being the short payment of Compensation Cess during the period from April, 2020 to March 2021 from M/s R.Renganathan & Sons, No.68, Nagai Road, Tiruvarur 610001 as per the provisions of Section 73 (9) of Central Goods and Services Act, 2017 read with Section 11 of the Central goods and Services (Compensation to States) Act, 2017,*

*(iii) I order that M/s R.Renganathan & Sons, No.68, Nagai Road, Tiruvarur 610001, shall pay interest at appropriate rates on the amount of demand confirmed under Sl. No.(ii) above in terms of the provisions of Section 50 of the CGST Act, 2017 from the date on which such amount is payable till it is actually paid,*

*(iv) I impose a Penalty of Rs.13,19,840/- (Rupees Thirteen Lakhs Nineteen Thousand Eight Hundred and Forty only) on M/s R.Renganathan & Sons, No.68, Nagai Road, Tiruvarur 610001, under Section 73(9) of CGST Act, 2017 read with Section 122 (2) (a) of the Central Goods and Services Act, 2017 and section 11 of the Central Goods and Services (Compensation to States) Act, 2017.”*

Challenging the same, this writ petition has been filed.

2.The very same issue was posed for consideration before the Division Bench of this Court in W.A.(MD)No.746 of 2025. The said writ appeal was disposed of in the following terms:-



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W.P.(MD)No.26461 of 2025

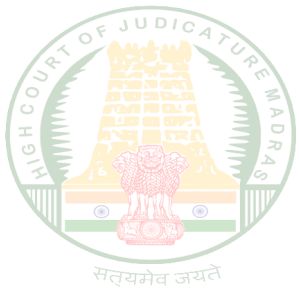
13. This issue is no longer res-integra. It was authoritatively settled long ago in ***Pachiappa Chettiar V. State of Madras ((1963) 2 MLJ 71)***. It is relevant to note that this question came up for consideration in connection with interpreting Section 5(viii) and (vii) of the Madras General Sales Tax Act. In the very opening line, the question was formulated in the following terms :

*“Whether the goods sold by the assessee, which is described as tundu tobacco, is “chewing tobacco” produced as a result of any manufacturing operations and assessable as a manufactured product”.*

*The process employed by the assessee was described as follows :*

*“The raw tobacco is cut into pieces. It is periodically sprinkled with palm jaggery water to keep it soft and wet. Otherwise, the tobacco becomes brittle and cannot be cut into pieces. The tobacco so treated with palm jaggery water is taken out little by little and cut into pieces. They are then separately arranged, packed in bundles, pressed and labelled.”*

*The above product was contrasted with what was known as “scented tobacco”, the manufacture of which involved the mixing up of quantities of jaggery, cardamom and other spices and conversion into a pasty mass and sold to customers. The Hon’ble Division Bench referred to an earlier decision rendered in 12 STC 126 (Bell Mark Tobacco Company vs. Government of Madras) in which decision also the raw tobacco purchased by the assesseees was subjected to soaking in jaggery water; dried in the shade and periodically subjected to the process of bulking. The Division Bench in Bell Mark Tobacco Company case held that if thereafter flavoring essences were added, leaf shredded and shredded tobacco was packed and labelled, that would amount to a*



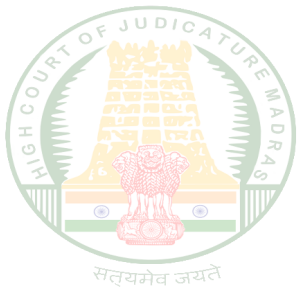
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W.P.(MD)No.26461 of 2025

*manufacturing process. The Hon'ble Division Bench held that mere sprinkling of jaggery water, drying tobacco in the shade and subjecting it to the process called "bulking" would not convert the raw tobacco into some other product. It was further held that the Bell Mark was an authority for the proposition that up to the stage of these processes, no manufacturing of the raw tobacco into some other product is involved. The argument of the department is that on account of the processes adopted by the assessee, the tobacco has become capable of being chewed. This argument was specifically rejected. It was observed that even without adopting the aforesaid processes, a tobacco could be chewed. Would it then become a chewing tobacco?. While the raw product may be capable of a particular use, "manufacture" involves some change in that article. Though basically the material might remain the same, it is being adopted to a particular use which in the original form it was not capable of. That is the essence of manufacture. The same view was taken in Deputy Commissioner v. C.Abdul Shahoor Sahib and Co., (1963) 2 MLJ 343.*

*14. One of us (GRSJ) followed Pachiappa Chettiar V. State of Madras ((1963) 2 MLJ 71) in E.S.Mydeen and Company v. Designated Officer WP(MD)No.18115 of 2021 while dealing with a circular/notification issued under the Food Safety and Standards Act, 2006. Even though Pachiappa Chettiar was cited before the learned Single Judge, it was not dealt with at all. Before us, the learned Standing Counsel argued that E.S.Mydeen was rendered in connection the Food Safety and Standards Act*



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W.P.(MD)No.26461 of 2025

*and that therefore, the learned Single Judge did not deal with the same. We are unable to subscribe to the aforesaid submission of the learned Standing Counsel. While E.S.Mydeen arose under the Food Safety and Standards Act, Pachiappa Chettiar arose under a taxing statute. The facts involved in Pachiappa Chettiar and the facts obtaining in the present case are not similar but identical. Pachiappa Chettiar is by a Division Bench. On the authority of Pachiappa Chettiar, we hold that the product made by the appellant is “unmanufactured tobacco” because it does not involve any manufacturing activity.*

*15.The ratio laid down in Pachiappa Chettiar finds an echo in the Explanatory Notes of HSN with respect to unmanufactured tobacco (24.01). It reads as follows :*

*“24.01 - Unmanufactured tobacco; tobacco refuse.*

*2401.10 - Tobacco, not stemmed/stripped*

*2401.20 - Tobacco, partly or wholly stemmed/stripped*

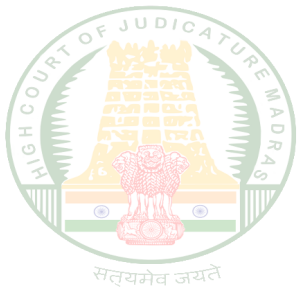
*2401.30 - Tobacco refuse*

*This heading covers:*

*(1)Unmanufactured tobacco in the form of whole plants or leaves in the natural state or as cured or fermented leaves, whole or stemmed/stripped, trimmed or untrimmed, broken or cut (including pieces cut to shape, but not tobacco ready for smoking).*

*Tobacco leaves, blended, stemmed/stripped and "cased" ("sauced" or "liquored") with a liquid of appropriate composition mainly in order to prevent mould and drying and also to preserve the flavour are also covered in this heading.”*

*It was held in Holostic India Ltd v. CCE (2015) 7 SCC 401, that HSN Explanatory Notes are relevant and are a safe guide in case*



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W.P.(MD)No.26461 of 2025

of doubt. *The Hon'ble Supreme Court followed an earlier ruling in CCE v. Wood Craft Products Ltd., (1995) 3 SCC 454 in which it was held that to resolve any dispute relating to tariff classification, a safe guide is the internationally accepted nomenclature emerging from the HSN. Thus, the case on hand passes muster when tested on the touchstone of the Explanatory Notes to HSN.*

*16.If the appellant's product involved addition of flavors and fragrances, it would certainly qualify as a manufactured product. In fact, the appellants were originally engaged in making such products. Following the ban imposed by the Government, they restricted their activities up to the stage indicated in Pachiappa Chettiar and refrained from engaging themselves in any manufacturing tobacco. This is evident from the cover label of the appellant's product. Earlier, it was called as "Special Panneer Tobacco". Now, following the giving up of adding flavors and fragrances, the product is called as "unmanufactured tobacco". The shift in the activity of the appellant is reflected in the nomenclature of the product also.*

*17.We have answered the issue in the light of what was laid down by the Division Bench of this Court. We do not want to stop with this. We would also seek to reinforce our conclusion by referring to the principles laid down by the Hon'ble Supreme Court in UOI v. Delhi Cloth and General Mills Co., Ltd., (1962) 10 TMI 1-SC. It was held therein as follows :*





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W.P.(MD)No.26461 of 2025

*“Manufacture implies a change, but every change is not manufacture and yet, every change of an article is the result of treatment, labour and manipulation. But something more is necessary and there must be a transformation ; a new and different article must emerge having a distinctive name, character or use”.*

*This decision had been followed in a number of subsequent decisions. What was hitherto a judicial dictum has now become a statutory definition. Section 2(72) of CGST Act, 2017 is as follows :*

*"manufacture" means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term "manufacturer" shall be construed accordingly;*

*Applying the above, one can notice that as a result of the process adopted by the assessee, no new product having a distinct name, character and use has emerged. The product continues to be raw tobacco. It was capable of being chewed in the first instance and is capable of the very same use even post the process adopted by the assessee. Hence, one has to hold that there is no manufacturing activity involved.*

*18. Another decision that is squarely applicable to the case on hand is **Crane Betel Nut Powder Works v. CCE, Thiruppathi (2007) 4 SCC 155**. It was held therein as follows :*

*“30....the issue involved in this appeal boils down to the question as to whether by crushing betel nuts and processing them with spices and oils, a new product could be said to have come into being which attracted duty separately under the Schedule to the Tariff Act.*

*31. In our view, the process of manufacture employed by the appellant Company did not change the nature of the end product, which in the words of the Tribunal, was that in*





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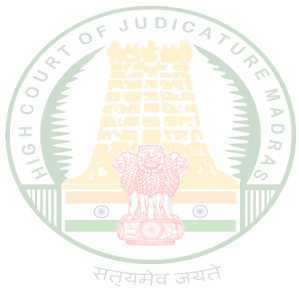
W.P.(MD)No.26461 of 2025

*the end product the “betel nut remains a betel nut”. The said observation of the Tribunal depicts the status of the product prior to manufacture and thereafter. In those circumstances, the views expressed in Delhi Cloth & General Mills Co. Ltd. [AIR 1963 SC 791 : 1963 Supp (1) SCR 586] and the passage from the American judgment (supra) become meaningful. The observation that manufacture implies a change, but every change is not manufacture and yet every change of an article is the result of treatment, labour and manipulation is apposite to the situation at hand. The process involved in the manufacture of sweetened betel nut pieces does not result in the manufacture of a new product as the end product continues to retain its original character though in a modified form.*

*32. In our view, the Commissioner of Customs and Central Excise (Appeals) has correctly analysed the factual as well as the legal situation in arriving at the conclusion that the process of cutting betel nuts into small pieces and addition of essential/non-essential oils, menthol, sweetening agent, etc. did not result in a new and distinct product having a different character and use.”*

*In the case on hand, the appellant has not gone up to that stage at all. The appellant’s process falls far short of what was dealt with in Crane Betel Nuts case. Crane Betel Nuts case is holding the field till date. If even the process referred to in Crane Betel Nuts will not be a manufacturing activity, it is needless to mention that an activity that does not travel that far will also not be a manufacturing activity.*

*19. The department has nowhere claimed that the appellant is adding any other material apart from jaggery water to the dried tobacco leaf. The assessee had challenged the department to subject their product to testing to find out if any new material*



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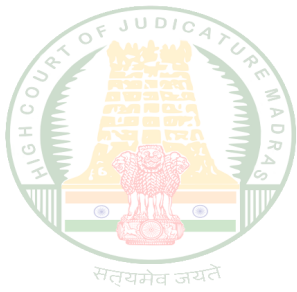


W.P.(MD)No.26461 of 2025

*has been added. The department did not pick up the gauntlet. We initially thought of remanding the matter on this ground. But on second thoughts we felt that when there was no dispute whatsoever on facts, there was no need for subjecting the goods in question to any test. Only if there is a divergence of view on facts which could be resolved by a lab test, we need to make a remand. Such is not the case here. The appellant has taken a firm stand that except sprinkling with jaggery water, no other material is added. The department has nowhere contested this assertion. What is to be adjudicated is not a question of fact but a pure question of law in respect of facts on which there is consensus. We have held that a similar question was already answered by a Division Bench in Pachiappa Chettiar. We after a careful reading of that judgment are of the respectful view that it was rightly decided and we have no hesitation in following the same.*

*20.The learned Single Judge was under the impression that the ban imposed by the Government of Tamil Nadu was in force from 2013 onwards. The learned Judge is both right and wrong. The ban was in force in respect of gutkha and pan masala. The ban was extended to chewing tobacco only with effect from May 2017. That is why, the assessee changed their business model. They ceased to make chewing tobacco. They stopped with unmanufactured tobacco.*

*21.Looked at from any angle, we are of the view that not only the department failed to discharge the onus cast on them, the*



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W.P.(MD)No.26461 of 2025

*assessee has more than established that their stand is correct. We hold that so long as the appellants are confining their activity to what was approved in Pachiappa Chettiar case, their product would fall under CETH 2401 20 90.*

*22.For the foregoing reasons, we set aside the order impugned in the writ petition as well as the order of the learned Single Judge assailed in this appeal. This writ petition as well as the writ appeal stand allowed. Consequently, connected miscellaneous petition is closed.”*

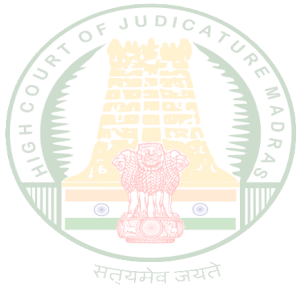
3.The issue raised in the present writ petition is identical. In view of the judgment made in W.A.(MD)No.746 of 2025, the order impugned in this writ petition is set aside. So long as the writ petitioner is confining its activity to what was approved in Pachiappa Chettiar's case, its products would fall under CETH 2401 20 90.

4.This writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

**01.06.2026**

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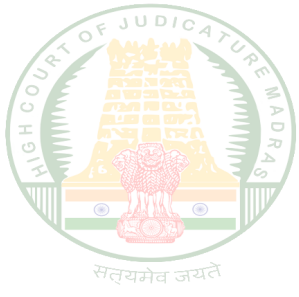
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W.P.(MD)No.26461 of 2025

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To  
Assistant Commissioner of GST & Central Excise,  
Thanjavur Division,  
No.1, Ponnagar, Medical College Road,  
Thanjavur – 613 007.



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W.P.(MD)No.26461 of 2025

**G.R.SWAMINATHAN, J.**

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**W.P.(MD)No.26461 of 2025**

**01.06.2026**