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W.A.(MD)NO.1988 OF 2025

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

**RESERVED ON : 01.08.2025**

**PRONOUNCED ON : 17.04.2026**

**CORAM**

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

**AND**

**THE HON'BLE MR.JUSTICE K.RAJASEKAR**

**W.A.(MD)No.1988 of 2025**

Arumugam,  
Proprietor M/s.Kavi Cut Tobacco,  
No.2, RS No.239, Abiramapuram,  
Thanjavur – 613 007.

... Appellant / Petitioner

Vs.

1. The Commissioner of GST & Central Excise,  
Office of the Commissioner of GST & Central Excise,  
No.1, Williams Road, Cantonment,  
Tiruchirappalli – 620 001.

2. The Assistant Commissioner  
of CGST & Central Excise,  
O/o.the Assistant Commissioner of GST &  
Central Excise,  
Pon Nagar, Medical College Road,  
Thanjavur – 613 007.

... Respondents / Respondents

**Prayer:** Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 24.10.2024 passed by the learned Judge in W.P. (MD)No.204 of 2021 on the file of this Court and allow the writ appeal.

For Appellant : Mr.V.Raghavachari, Senior Counsel  
for Mr.Joseph Prabakar.

For Respondent : Mr.R.Nandakumar,  
Central Government Standing counsel.

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**J U D G M E N T**

**(By G.R.SWAMINATHAN, J.)**

The appellant herein is engaged in tobacco business. The sequence of activities undertaken by the appellant have been described in Paragraph 7 of the affidavit filed in support of the writ petition as follows :

- *Raw dried tobacco leaves are purchased from wholesale dealers/growers.*
- *Stems and dust particles are removed.*
- *Then the leaves are cured using jaggery-water for the purpose preventing the leaves from moulding or further decaying, which is called as liquoring.*
- *Thereafter, the leaves are cut into small pieces in a cutting machine.*
- *Then the cut leaves are packed in pouches/pottalams.*
- *The pouches are then supplied for sale under the brand name Kulavi's Kavi cut tobacco.*

2.The case of the petitioner was that the product made by him would fall under CETH 2401 20 90. The case of the department was that the appellant's product is classifiable only under CETH 2403 99 10. Since the assessing authority did not agree with him, he moved the advance ruling authority which held that the product in question would get classified as "manufactured chewing tobacco" falling under HSN 24 03. Questioning the same, the appellant herein moved the Tamil Nadu State Appellate Authority for Advance Ruling. The said authority vide



order dated 29.09.2020 declined to interfere with the order of the Advance Ruling Authority. Challenging the same, the appellant filed WP(MD)No.204 of 2021. This writ petition was taken up along with other writ petitions and by a common order dated 24.10.2024, it was dismissed. Assailing the same, this writ appeal has been filed.

3.Heard the learned Senior Counsel for the appellant.

4.The learned standing counsel is right in his submission that when once advance ruling was sought and obtained, the assessee is bound by the same and that the scope for judicial review is highly limited.

5.An assessee under the GST laws is entitled to seek advance ruling from the Authority for Advance Ruling and if aggrieved by its decision, move the Appellate Authority for Advance Ruling. The provisions relating to this are set out in Chapter XVII of the CGST Act, 2017. Section 95(a) of the Act defines “advance ruling” in the following terms :

“advance ruling” means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100,in relation to



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the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant”

Advance ruling may be sought in respect of the following questions :

- “(a) classification of any goods or services or both;
- (b) applicability of a notification issued under the provisions of this Act;
- (c) determination of time and value of supply of goods or services or both;
- (d) admissibility of input tax credit of tax paid or deemed to have been paid;
- (e) determination of the liability to pay tax on any goods or services or both;
- (f) whether applicant is required to be registered;
- (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.”

As per Section 103(1) of the Act, the advance ruling pronounced by the Authority or the Appellate Authority shall be binding only on the applicant and the concerned officer or the jurisdictional officer.

6.Question may arise if the applicant, though declared to be statutorily bound by the advance ruling, can challenge it. The answer is



in the affirmative. It has been held that an advance ruling can be assailed by filing a petition under Article 226/227 of the Constitution of India before the jurisdictional High Court. The scope for judicial review is rather minimal and limited. The High Court cannot function as an appellate body. It can only exercise the power of judicial review. The High Court would be more concerned with the process adopted by the authority than with the decision itself. While exercising the powers of judicial review, the court will see whether the authority acted within its jurisdictional limits, committed errors of law, adhered to the principles of natural justice or acted in breach thereof and whether the decision is perverse or not. If two views are possible, a court sitting in judicial review shall not exercise its discretion in favour of an alternate view to that of the authority (***Dabur India Ltd v. Commissioner of CGST (2020 SCC OnLine All 36)*** ).

7. In Income Tax Act, 1961 also, there are provisions relating to advance ruling in Chapter XIX-B. Section 245S states that the advance ruling shall be binding on the applicant who had sought it in respect of the transaction in relation to which the ruling had been sought and on the jurisdictional Principal Commissioner or Commissioner and the I.T authorities subordinate to him. Section 245W was inserted by the Finance Act, 2021 w.e.f 01.04.2021 and it provided for an appeal to the



High Court. Earlier, there was no such provision. The Hon'ble Supreme Court in ***Colombia Sportswear Co. v. DIT (2012) 11 SCC 224*** held that an advance ruling can be challenged before the High Court under Articles 226 or 227 of the Constitution and that the binding effect set out in the statutory provision would not bar the jurisdiction of the constitutional courts to entertain a challenge to the advance ruling. The discussion in this judgment might have become academic since the I.T Act provides for an appeal to the High Court itself. But then, the opinion of the Hon'ble Supreme Court that when an advance ruling of the Authority is challenged before the High Court under Articles 226/227 of the Constitution, the same should be heard directly by the Division Bench of the High Court and decided as expeditiously as possible, would hold good. We, therefore, direct that when the advance ruling of the Authority or the Appellate Authority is challenged by filing writ petition, it shall be listed straightaway before the Division Bench and not before any single Judge bench. Not doing so would run counter to what has been laid down in ***Colombia Sportswear Co.***

8.The issue raised by the appellant herein was raised by the appellant in WA(MD)No.746 of 2021 also. They are engaged in making similar kinds of tobacco products. Both are adopting the very same processes. In the other writ appeal, we have held that the goods dealt

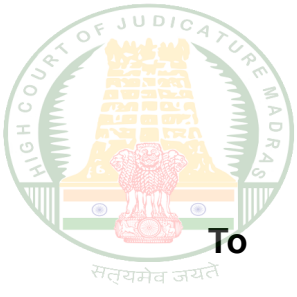


with by the appellant would fall under CETH 2401 20 90 provided they continue to confine their activity to what was approved in ***Pachiappa Chettiar v. State of Madras (1963 (2) MLJ 71)***. The decision of the Authority is otherwise. If the impugned decisions of the Authorities are allowed to stand, that would result in an invidious situation. Persons similarly placed would be paying compensation cess at different rates for similar products. That would be an egregious breach of the equality principle. It is in this view of the matter, we set aside the orders impugned in the writ petition as well as the order of the learned Single Judge.

9.The writ appeal stands allowed. No costs. Connected miscellaneous petition is closed.

**(G.R.SWAMINATHAN, J.) & (K.RAJASEKAR, J.)**  
**17.04.2026**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes/ No  
PMU/skm



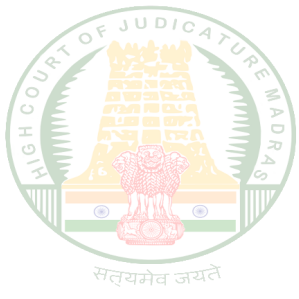
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