
(2013) 09 SC CK 0144

In the Supreme Court Of India

Case No : Writ Petition (Civil) No. 466 of 2011

Baba Global Ltd. & Anr.

APPELLANT

Vs

Union of India & Anr.

RESPONDENT

Date of Decision : 03-09-2013

Acts Referred:

Environment Protection Act, 1986

Citation : (2014) 1 RCR(Civil) 649 : (2013) 15 SCALE 25

Hon'ble Judges : Mr. G.S. Singhvi and Mr. V. Gopala Gowda, JJ.

Bench : Division Bench

Advocate : Mr. Sudhir Chandra Agrawala, Sr. Advocate and Mr. Sanjai Kumar Pathak, Advocate, for the Appellant; Mr. P.P. Malhotra, ASG, Mr. Yasin Rauf and Ms. Priyanka Mathur Sardana, Advocates, for the Respondent

Final Decision : Dismissed

Judgement

1. In this petition filed under Article 32 of the Constitution, the petitioners have made the following substantive prayers:

"i) issue writ of declaration that the exemption contained under rule 2 of Plastic Wastes (Management & Handling) Rules, 2011 must be available to the petitioner to export its Pan masala, Gutkha and tobacco in multilayered plastic sachet and also in other packages containing plastic.

ii) issue writ of certiorari or any order, writ or direction in the nature of certiorari quashing the impugned Rules 5(d) and 5(g) contained in Plastic Wastes (Management & handling) rules, 2011 as amended vide notification dated 07.07.2011 produced at (Annexure P* and P10;

iii) issue a writ of declaration or any other appropriate writ, order or direction declaring Rule 5(d) and (g) of the Plastic Wastes (Management & Handling) Rules, 2011 as being violative of Articles 14, 19 (1)(g) of the Constitution and also ultra vires the provisions of the Environment Protection Act, 1986."

2. During the pendency of the writ petition, affidavits dated 7.8.2013 and 30.08.2013 have been filed on behalf of the petitioners. In paragraphs 2 to 7 of affidavit dated 30.08.2013, the deponent Shri Ravinder Kumar has made the following statements:

"2. I say that the petitioner company is a 100% Export oriented Unit established in SEZ Area. The petitioner company is not in the business of selling Pan Masala, Gutkha and tobacco products manufactured in its Unit in the domestic area.

3. I say that in case of exemption from Plastic Waste (Management and Handling) Rules, 2011 (as amended) (hereinafter referred to as the Plastic Rules) being granted for the export of Pan Masala, Gutkha and tobacco products in plastic packaging, the petitioner company undertakes not to sell Pan Masala, Gutkha and tobacco products in plastic packaging inside India in violation of the Plastic Rules.

4. I say that the Petitioner company shall not establish its unit outside the SEZ/EPZ for manufacture of Pan Masala, Gutkha or any other tobacco product in plastic packages for domestic sale.

5. I say that in case of grant of exemption from the Plastic Rules to the petitioner company for export of Pan masala, Gutkha and tobacco products in plastic packagings against an order of export, the said exemption shall not apply to the waste and rejects.

6. I say that the company shall not bring back the exported Pan Masala, Gutkha and Tobacco products in plastic packaging to India for distribution or sale.

7. I undertake to comply with all the conditions mentioned herein above."

3. Shri P.P. Malhotra, learned Additional Solicitor General, on instructions, made a statement that in view of the undertaking given by the petitioners' representative, its unit will be exempted from the operation of the Plastic Wastes (Management and Handling) Rules, 2011.

4. In view of the above, the writ petition is disposed of as infructuous.