
(1994) 09 MAD CK 0026

In the Madras High Court

Case No : Writ Petition No. 17041 of 1994

S. and S. Power Switchgear Ltd.

APPELLANT

Vs

Assitt. Collector of C. Ex., Madras

RESPONDENT

Date of Decision : 30-09-1994

Acts Referred:

Citation : (1995) 76 ELT 513

Hon'ble Judges : Shivraj V. Patil, J

Bench : Single Bench

Advocate : Shri R. Sashidharan, for the Appellant;

Judgement

1. Heard the learned counsel for the petitioner.

2. What is challenged in this writ petition is a mere show cause notice in C.C. No. 608 of 1994, dated 29-8-1994, under which the petitioner was

called upon to show cause. Learned counsel for the petitioner submitted that a reading of the impugned show cause notice, dated 29-8-1994

shows that the authorities have already concluded on certain issues as regards the classification, which is not correct and that no duty can be levied

or demanded, without deciding about the classification list filed by the petitioner on 1-3-1993. Learned counsel for the petitioner went on to argue

that on the face of it, no action can be taken pursuant to the said show cause notice. In this regard he states that he is supported by the Judgment

of the Supreme Court in Union of India (UOI) and Others Vs. Madhumilan Syntex Pvt. Ltd. and Another, .

3. I am not inclined to entertain this writ petition on the short ground that what is challenged in this writ petition is only a show cause notice, under

which an opportunity is provided to the petitioner to show cause and also place

all evidence on record that supports him. A reading of the show cause notice, in my view, does not show that the authorities have concluded anything on merits. The statements made therein are for the prima facie purpose of issuing a show cause notice. They should not be construed as conclusions arrived at by the authorities. It is always open to the petitioner to show cause to the said show cause notice and urge all the contentions that are available to him, as indicated in the show cause notice itself. The petitioner can also place any evidence that supports him. Learned counsel for the petitioner further submitted that the authorities should decide about the classification list filed by the petitioner as early as on 1-3-1993. It is for the authorities to deal with the said classification list in accordance with law and on its merits but expeditiously.

4. In this view, this writ petition is rejected at the stage of admission, subject to what is stated above.