(1997) 04 MP CK 0042

In the Madhya Pradesh High Court

Case No : Miscellaneous Petition No''s. 983, 1020, 1021 and 1022/92

S.K. Taose and Co. Pvt. Ltd. and Others — APPELLANT

Vs

Collector of Central Excise — RESPONDENT

Date of Decision : 29-04-1997

Acts Referred:

Central Excises and Salt Act, 1944 — Section 11A
Constitution of India, 1950 — Article 226, 227

Citation : (1997) 72 ECR 274 : (1997) 95 ELT 15

Hon'ble Judges : N.K. Jain, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

N.K. Jain, J.—All these petitions filed under Article 226/227 of the Constitution of India are directed against show-cause notices issued by the respondent Collector of Central Excise, Indore u/s 11A of the Central Excises and Salt Act, 1944 (for short, ''the Act'').

2. Besides contesting the petitions on merits, Shri B.C. Neema, counsel for the respondents, has raised preliminary objections as to the tenability of these petitions on the ground of availability of alternative remedy. He contends that the petitioners should contest the notices before the respondent himself and resort to appropriate remedy.

2.1. As against it, Shri A.M. Mathur, learned Counsel for the petitioners submits that the show-cause notices being without jurisdiction are amenable to interference by this Court in writ jurisdiction. He contends that the petitions having been admitted should not be disposed of on merits. He has placed reliance on xxxv. Collector of Central Excise (M.P. No. 76/89), Rajpal v. Collector of Central Excise (M.P. No. 792/89), Neo Sack v. Collector of Central Excise (M.P. No. 793/89), Ska Trading Company v. Collector of Central Excise (M.P. No. 456/90), Nalson Company v. Collector of Central Excise (M.P. No. 457/90), Indore Lands v. Collector of Central Excise (M.P. No. 458/90), Kalan Brothers v.

Collector of Central Excise (M.P. No. 459/90), Alpine v. Collector of Central Excise (M.P. No. 473/90), S.K. Taose and Company v. Collector of Central Excise (M.P. No. 893/92), Shri Ram v. Collector of Central Excise (M.P. No. 1020/92), Precision Trading v. Collector of Central Excise (M.P. No. 1021/92) and Deal and Deal v. Collector of Central Excise (M.P. No. 1022/92).

3. The point projected above stands concluded by the two decisions of this Court in the case of Grasim Industries (1995 ELT (74) (MP) : 1995 (57) ECR 572 (MP) and Kinetic Honda Motors Ltd. v. Union of India M.P. No. 1823/91 decided on 22.4.1997, 1997 ECR (MP). In both the decisions it is held that powers under Article 226/227 should not be exercised where alternative remedy is available and which has not been availed of.

4. In State of U.P. and another Vs. Labh Chand,) it is held:

When a Statutory Forum or Tribunal is specially created by a statute for redressal of specified grievances of persons on certain matters, the High Court should not normally permit such persons to ventilate their specified grievances before it by entertaining petitions under Article 226 of the Constitution is a legal petition which is too well settled.

5. I thus decline to enter into the merits of the petition and dismiss the same leaving the petitioners free to raise all the contentions raised herein, before the respondent. In the event of adverse order the petitioners may also have recourse to the appellate jurisdiction available under the Act. There shall be, however, no order as to the costs of these petitions.

6. Security deposit, if any, shall be refunded to the petitioners after due verification.

7. This order be retained in M.P. No. 983/92 and a copy each be placed in M.P. Nos. 1020/92, 1021/92 and 1022/92.