

Initialed
No. 04/03/2016

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

ORDER SHEET PART - I

R.F.A./R.S.A./M.F.A./M.S.A./W.P./C.R.P./C.P.
Appellant Petitioner

of
WA 502/2016 (GM RES)
Respondent 20

THE TOBACCO INSTITUTE OF INDIA
Appellant

UNION OF INDIA

Advocate

Petitioner

-Vs-
Date of Filing : 01/03/2016

Advocate for Respondent

NALINA M.

Office Notes

Orders of Court

Receipt No: 15731/2016 Court Fee : 100

WRIT APPEAL FILED U/S 4 OF THE KARNATAKA HIGH
COURT ACT PRAYING TO SET ASIDE THE ORDER
PASSED IN THE WRIT PETITION NO.4470/2015
DATED 24/02/2016

CF ~~INSUFFICIENT~~/SUFFICIENT
APPEAL IN TIME/~~OUT OF TIME~~.

LIMITATION CALCULATION

Date of Order	:	24/02/2016
Date of Filing	:	01/03/2016
Total	:	6 days
Less :		
Period required to obtain CC	:	2 days
Total	:	4 days
Less: Limitation Period	:	30 days
No. of days delay	:	-26
\$		

IN THE ABOVE APPEAL, THE FOLLOWING OFFICE
OBJECTIONS ARE YET TO BE COMPLIED WITH:
1. WRIT APPEAL PRAYER TO BE SPECIFICALLY
STATED.



This Certified copy contains.....Pages
And Copying charges of ₹.....
Received

NKJ & BVJ:
11.03.2016

W.A. No.502/2016 c/w
& W.A. No. 504/2016 c/w
& W.A. Nos.497-499/2016

These appeals arise out of a common order passed by the learned Single Judge on 24.02.2016 vacating the interim order granted on 04.12.2015 as modified by the order dated 06.01.2016.

The grievance of the appellant in all these appeals is, the learned Single Judge was of the view that the order passed by the Apex Court in W.P. No.549/2008 on 06.05.2009, comes in the way of any order being passed by the High Court and therefore, the ex parte interim order passed by the learned Single Judge without noticing the aforesaid judgment of the Apex Court was vacated. The aforesaid order on which the learned Single Judge relies in his order reads as under:

"Application for impleadment is allowed.

Heard learned counsel for the parties.

Mr.Gopal Subramaniam, learned Additional Solicitor General appearing on behalf of the Union of India made a statement at the Bar that Government of India undertakes to implement Cigarettes and Other Tobacco Products (Packaging and Labelling) Rules,



2008, with effect from 31st May, 2009, and enforcement thereof shall not be further extended under any circumstances. In view of this statement made at the Bar and the undertaking, it is not necessary to pass any further order in these writ petitions by way of interim measure. However, we direct that no Court in the country shall pass any order, which is inconsistent with this order.

The interlocutory applications are, accordingly, disposed of."

The argument is, that was a writ petition filed in the year 2008 seeking a writ of mandamus for implementation of the Cigarettes and Other Tobacco Products (Packaging and Labelling) Rules, 2008, with effect from 31st May, 2009. The learned Additional Solicitor General appearing for the Government undertook to implement the said Rules. Therefore, the Apex Court felt that it is not necessary to pass any further orders. At the same time, it also directed that **no Court in the country shall pass any order, which is inconsistent with this order.**

The subject matter of the writ petitions before the High Court are the constitutional validity of the



Cigarettes and Other Tobacco Products (Packaging and Labelling), Amendment Rules, 2014, which amended the 2008 rules, which shall come into force from 1st day of April, 2015. Therefore, they contend that the aforesaid order of the Apex Court has no application and therefore, the learned Single Judge ought to have considered the application on merits and passed appropriate orders. The learned Single Judge on considering this argument, which was also addressed before him and in para 20 of the order he has stated that I.A.17/15 was also filed by the writ petitioners seeking to direct the Central Government to bring into effect the Amended Rules of 2014, as well as to set-aside the notification dated 26.03.2015, which indefinitely defers pack warnings on tobacco products. Both these applications were pending along with the writ petition and therefore, he was of the view that judicial discipline demands that, when the Apex Court has already seized of the same, it would not be appropriate for this Court to pass orders on the ground that those Rules are not the subject matter of the writ petition on the day it was filed and also the aforesaid



order passed by the Apex Court. The argument is that in the proceedings before the Apex Court, the constitutional validity of neither the 2008 Rules nor the 2004 Rules is the subject matter. They are only seeking a writ of mandamus for its implementation. Therefore, this Court has to go into the validity of these Rules.

In the light of the aforesaid facts, we are of the view that it would be appropriate for the appellants to approach the Apex Court in the said pending writ petition and seek appropriate directions clarifying the position, so that, this Court can proceed further in the matter in terms of the orders to be passed by the Apex Court.

Ordered accordingly.

Sd/-

Call after two weeks. JUDGE

Sd/-

JUDGE

1000 COPY
15/3/16
Section Officer
High Court of Karnataka
Bangalore - 560 001

- a) The date on which the application was made 14/3/16
- b) The date on which charges and addl charges, if any, are called for.....
- c) The date on which the charges and addl charges if any, are deposited..... 15/3
- d) The date on which the copy is ready..... 15/3/16
- e) The date of receipt of the copy to read for delivery.....
- f) The date on which copy is delivered.....

SPS

