(1994) 10 BOM CK 0076

Bombay High Court

Case No: Writ Petition No. 1633 of 1986

Godfrey Philips India Ltd.		APPELLANT
	Vs	
Asstt. Collector of C. Excise, Bombay		RESPONDENT

Date of Decision: Oct. 14, 1994

Citation: (1995) ECR 251 : (1995) 77 ELT 525

Hon'ble Judges: S.M. Jhunjhunwala, J; M.L. Pendse, J

Bench: Division Bench

Advocate: Shri D.B. Shroff, instructed by M/s Crawford Baylay and Co, for the Appellant; Shri K.K. Bulchandani and Shri H.V. Mehta, for the Respondent

Judgement

M. L. Pendse, J.

The controversy in this petition stands concluded by decisions of two Division Benches of this Court, to which one of us (Pendse, J.) was a party, one dated March 9, 1994 in Writ Petition No. 1835 of Chemifine Vs. Union of India, and two Others and another reported in Mehta Pharmaceutical Industries Vs. Union of India, . The decision of the Supreme Court reported in M/s. Pankaj Jain Agencies Vs. Union of India and others, also held that the rates of duty had to be ascertained from the date of publication of Notification in the Official Gazette. The Supreme Court turned down the contention that notwithstanding the publication in the Official Gazette, unless the Notification was available and the law is made known, the Notification could not be enforced.

2. The controversy in this petition lies in a narrow compass. The petitioners are engaged in manufacture of cigarettes. The manufactures enjoyed partial exemption by virtue of certain Notification. On September 2, 1985 the Central Excise authorities issued fresh exemption Notification and which varied the exemption previously in force and thereby altered the rates of duty chargeable in respect of manufacture of cigarettes. The petitioners claimed that the Notification was published in the Official

Gazette of India and was available to the public at large only on September 3, 1985 and consequently the clearance of various quantities of cigarettes on September 2, 1985 should be on payment of rates of excise duty payable prior to September 3, 1985. The claim of the petitioners is devoid of any merit. The Notification dated September 2, 1985 was published in the Official Gazette on September 2, 1985 itself. Shri Shroff, learned counsel appearing on behalf of the petitioners, conceded to that fact but urged that as long as Notification was not available to the public, the Notification cannot be operated. The submission is devoid of any merit. The effect of the Notification comes into force as soon as the Notification is published in the Official Gazette and consequently the petitioners are not entitled to any relief.

3. Accordingly, petition fails and rule is discharged with costs.