

Both GST and Excise duty can be imposed on tobacco: Karnataka HC

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The Karnataka High Court has ruled that the Union government is entitled to levy Central GST (CGST) as well as excise duty on tobacco and tobacco-derived products.

It dismissed a bunch of petitions by tobacco manufacturers who had challenged the same.

"The levy of excise duty on tobacco and tobacco products is a matter of public policy and this court in exercise of writ jurisdiction would not interfere with the same. The CGST itself contemplates levy of excise duty upon tobacco and tobacco products apart from they being taxed under the provisions of CGST," Justice M I Arun said in the recent judgment.



The Dharwad bench of the HC heard petitions by Ghodawat Packers LLP, H I Tamboli and Sons, Rajnandini Foods Pvt Ltd, Balajee Pouches, Ghodawat Foods International Limited and Ghodawat Industries India Private Limited, against the Ministry of Finance, Union of India and Joint Commissioner of CGST and Central Excise.

The Joint Commissioner on March 25, 2021 issued an order imposing excise duty and National Calamity Contingent Duty (NCCD) on tobacco products manufactured and sold in the Belagavi jurisdiction.

Before the Central Goods and Services (GST) Act, 2017, tobacco products were taxed under Central Excise Act read with Central Excise Tariff Act. The Central Excise Act was repealed except for goods included in Union List of Seventh Schedule of the Constitution. The Central Excise Tariff Act was also repealed.

The HC said that though the Excise Act was repealed, tobacco and tobacco products were added to the Seventh Schedule of the Constitution under Entry 84. "Thus, apart from levy of taxes under the provisions of CGST Act, 2017, excise duty can be levied on tobacco and tobacco products under the Central Excise Act, 1944." As for the NCCD, the HC noted that Section 136 of the Finance Act, 2001 contemplates levy of such a duty.

"NCCD is a surcharge and a type of excise duty which can be levied independently of the excise duty as contemplated under the provisions of Fourth Schedule to the Central Excise Act, 1944. Thus, levy of NCCD in the absence of levy of excise duty cannot be considered as bad in law," the HC said.

Dismissing the petitions, the HC clarified: "For better clarification, reference is made out in the Central Excise Act. Repealing of Central Excise Act does not absolve the petitioners paying NCCD as determined under the Seventh Schedule."

Source: <https://www.businessinsider.in/india/news/both-gst-and-excise-duty-can-be-imposed-on-tobacco-karnataka-hc/articleshow/94662390.cms#:~:text=Both%20GST%20and%20Excise%20duty%20can%20be%20imposed%20on%20tobacco%3A%20Karnataka%20HC,-Advertisement&text=The%20Karnataka%20High%20Court%20has,who%20had%20challenged%20the%20same.>