KARNATAKA HIGH COURT STRIKES DOWN HEALTH SECURITY CESS ACT, 2025; HOLDS MACHINE-BASED LEVY VIOLATES ARTICLE 14

The Karnataka High Court has struck down the Health Security se National Security Cess Act, 2025, which imposed a machine-based cess on pan masala manufacturers, holding that while Parliament could impose such a levy, the manner in which it was levied violated Article 14 of the Constitution.

The court held that the law levied the cess on the assumption of the quantity manufactured based on the capacity of pouch-packing machines instead of the quantity actually manufactured, which is unconstitutional.

A single-judge bench of Justice M. Nagaprasanna observed, **"The power of the Union Government to promulgate a law to levy cess is upheld. The manner in which the Act and the Rules levy the cess is held to be unreasonable and vague, as it is based on assumption of quantity manufactured instead of actual quantity manufactured, failing the tenets of Article 14 of the Constitution of India and to that extent, the Act is held to be unconstitutional. Consequently, the Rules are also held to be unconstitutional. Sequentially, the notifications dated 16-12-2025, 31-12-2025, 01-01-2026 and 30-01-2026 stand obliterated"**

The petitions were filed by several pan masala manufacturers challenging the constitutional validity of the Health Security se National Security Cess Act, 2025, the rules framed under it, and the notifications issued under the Act.

They argued that Parliament lacked legislative competence to enact the law after the introduction of the GST regime. They also argued that the cess was arbitrary because it was calculated on the presumed quantity manufactured based on the capacity of pouch-packing machines rather than the quantity actually manufactured. According to them, this made the levy violative of Articles 14 and 19(1)(g) of the Constitution.

The Union Government opposed the challenge, submitting that the impugned levy was neither GST nor a surcharge. It argued that the taxable event under the Act was the ownership or possession of pouch-packing machines rather than the supply of goods, placing the levy outside Article 246A.

The centre further contended that Parliament could enact the law by exercising its residuary legislative powers. It also argued that a machine-capacity based levy was intended to curb tax evasion in the pan masala industry.

The court accepted the Centre's submission on legislative competence. It held that the levy was not a GST and that Parliament was competent to enact such a law under its residuary legislative powers. Rejecting the manufacturers' challenge on this issue, the Court observed, "The contention of the petitioners that Parliament lacked the legislative competence to enact the impugned legislations is without merit and deserves to be rejected.", the court ruled.

The court, however, found that the manner in which the cess was designed was arbitrary. It rejected the Revenue's justification that the subsequent purchase of higher-capacity machines could sustain the levy.

The court held that the legislation ought to have been based on a different rationale instead of assuming the quantity manufactured from machines capable of producing 500 pouches per minute.

It observed, "The subsequent sale of machines on the increased capacity and purchase of new machines with higher capacity, by some of the petitioners, cannot be viewed as a ground to levy cess, as every machinery will have to come under scrutiny.

Therefore, the Act ought to have been drawn on some other rationale and not from the fact that machines have to produce 500 pouches per minute. Therefore, the justification of the revenue in the considered view of the Court is unacceptable."

Drawing a distinction between Parliament's power to enact a cess and the constitutional validity of the manner in which it exercised that power, the court observed, "While upholding the power of the Union of India to bring in a legislation for the imposition of tax, surcharge or cess, the matter that it is bought in and its execution is found to be in violation of Article 14 of the Constitution.

This results in the obliteration of the Act and the Rules holding them to be failing the tenets of Article 14.

However, liberty is reserved to the Union to bring in the enactment, bearing in mind the observations made in the course of the order." Accordingly, the court partly allowed the petitions. It struck down the Act, the Rules and the notifications issued under them. At the same time, it clarified that the judgment would not prevent the Union Government from enacting a fresh law bearing in mind the observations made in the judgment.

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