

GIB/KR/LALITHA/03-09-2019/HC-122

High Court Category : Place of Supply

State : Kerala

Order No.: GIB/KR/LALITHA/03-09-2019/HC-122

Name of Entry :
LALITHA MURALEEDHARAN

Date : 03-09-2019

Breif Issue :

Facts & Issue

- The petitioner “**LALITHA MURALEEDHARAN**” is engaged in the manufacturing of natural and essential oils, food supplements, aromatic chemicals, etc. from an industrial unit located in the Madras Export Processing Zone. The said industrial unit is a notified Special Economic Zone (SEZ), i.e., 100% export-oriented unit.
- The petitioner had participated in the e-auction of sandalwood conducted by the Government Sandal Depot, Marayoor (Kerala). Upon successful bidding, the taxpayer was asked to comply with the conditions of sale and pay the sale consideration, forest development tax, and IGST.
- The petitioner filed a letter with the Forest Officer to obtain clarification regarding payment of IGST on the sale consideration. In response, the Forest Officer highlighted the relevant provisions of the IGST Act, 2017, and asked for payment of IGST on the goods purchased by the petitioner.
- The taxpayer, being aggrieved by the IGST demand, filed a writ petition before the Kerala High Court. The petitioner contends that the demand of IGST is illegal and unauthorized.

Decision of Advance Ruling Authority :

Decision

- It was held that the acceptance of delivery of sandal wood logs at Government Forest Department, Marayoor, is not the conclusive circumstance for deciding the place of supply of goods in the present regime of GST. The petitioner upon completion of other sale conditions receives the sandal wood logs at Marayoor Forest Department depot, and the acknowledgment of goods at Marayoor Forest Department Depot does not result in termination of movement of goods but results in further movement of goods at the hands of recipient to SEZ.
- So the final destination i.e. SEZ in the case on hand is the supply point. The actual place of supply by plain interpretation of Section 10(1) is within the SEZ in Madras, State of Tamilnadu, but not in State of Kerala. - Therefore, the contention of petitioner that supply of goods is completed at Marayoor Forest Department and subject sets is an intra state transaction is

unsustainable.

- The subject transaction shall be treated as zero-rated tax supply - petitioner is given four weeks from the date of order to comply with the conditions which the petitioner is under obligation to comply with except deposit of 18% tax IGST and communicate to 1st and 2nd respondents with a request to deliver the goods - Petition disposed off.