

GIB/KR/Akay Flavours/12.02.2020/HC-128

High Court Category : Others

State : Kerala

Order No.: GIB/KR/Akay Flavours/12.02.2020/HC-128

Name of Entry :

Akay Flavours & Aromatics (P) Ltd.

Date : 12-02-2020

Breif Issue :

Facts & Issue of The Case:

The petitioner AKAY FLAVOURS AND AROMATICS PVT LTD has approached this Court with a prayer of

1. quashing the demand raised vide Ext.P5, for returning the appeal preferred against the assessment order to be deficient of court fees, i.e., 1% of the disputed amount and

2. declaring imposition of levy of additional court fee by the State Authority in exercise of powers under Section 76(1) of the Kerala Court Fees Act vide notification dated 7.4.2016 (Ext.P2) extending powers under Section 76 of the Kerala Court Fees and Suit Valuation Act, 1959 fixing the court fees to be levied by civil courts, tribunals and the appellate authorities constituted by or under any special or local law, at the rate of 1% of the amount involved in the dispute.would not apply in the field of GST

It is contended by petitioner that the aforementioned additional court fees of 1% should not be leviable in the appeals filed under Section 108 of the Kerala Sales Goods Service Tax/ Central GST Act arising out of decisions or orders passed under the Act. Reliance has been laid to the provisions of Section 108 dealing with the filing of the appeal. Section 108 do not contemplate remittance of any additional court fees or other fees and thus the objection of the authorities in not entertaining the appeals being not accompanied by 1% additional fee is wholly falacious and arbitrary,

Decision of Advance Ruling Authority :**Decision**

Article 304 A and B of the Constitution of India empower the State to impose tax by putting a certain reasonable restriction which should not be violative of Article 14 of the Constitution of India. The question with regard to reasonable classification or intelligible differentia referred to is no longer res integra in view of the judgment of the Constitution Bench in Jindal Stainless Steel Ltd. & Anr. V. State of Haryana & Ors, reported at 2016 VOL. 66 SC-CB.

In view of what has been noticed by the court, the notification cannot be seen to be in violation of Article 14 or suffering from the character of tax. The writ petition is dismissed.