

GIB/MD/Jeyyam Global/23.01.2019/HC-144

High Court Category : HSN

State : MADRAS

Order No.: GIB/MD/Jeyyam Global/23.01.2019/HC-144

Name of Entry :

M/s. Jeyyam Global Foods (P) Ltd. Vs Union of India

Date : 23-01-2019

Breif Issue :

Fact & Issue of Case:

The petitioner is a manufacturer of dried chick peas, gram flour, pulses and grams. They claim to purchase chick peas, dry them by heating them to a certain degree and the resultant product is known as “Dried Chick Peas”.

According to the petitioner, this would have to be classified only under Chapter 0713 of HSN. The petitioner had transported the dried chick peas from Salem to Dindigul. The petitioner had not filed any E-Way bill in view of the exemption statutorily granted.

Madras High Court has directed Commissioner of commercial tax in this case to instruct his officers not to detain goods / conveyances for classification disputes.

Decision of Advance Ruling Authority :

Decision:

In this view of the matter, he issued a detention notice and levied tax with equal penalty. The petitioner paid the said amount as demanded by the fourth respondent under protest and he also obtained release of the goods as well as the vehicle.

The order was challenged in the writ petition principally on the ground that when a bonafide dispute as to classification had arisen, it is only the jurisdictional assessing officer, namely, the third respondent who could have ruled on the classification and that it was not open to the Squad Officer to have done so.

With these directions, this writ petition is allowed.