

GIB/TR/M/S SARVASIDDHI AGROTECH /20.04.2021/HC-183

High Court Category : LEVY OF CGST AND SGST

State : Tripura

Order No.: GIB/TR/M/S SARVASIDDHI AGROTECH /20.04.2021/HC-183

Name of Entry :
M/S SARVASIDDHI AGROTECH

Date : 20-04-2021

Breif Issue :

FACTS AND ISSUE OF THE CASE:

In this case the Petitioner M/S Sarvasiddhi Agrotech Pvt. Ltd. is a registered company and is engaged in supply of rice in the State of Tripura.

The officials of GST department had carried out a surprise visit to the premises of the petitioner- company from where several incriminating documents and sizable quantity of packaged rice were seized. The invoices and other sales details established that for the period under consideration, the petitioner had supplied rice in packages of 25 kg each which carried the brand name Aahar Normal, Aahar Gold or Aahar Premium without payment of GST Therefore, bill books, order books and several bags of branded rice packaged while Sarvasiddhi Agrotech Pvt. Ltd. i.e. the petitioner-company were seized. Sizable quantity of such packaged branded rice was also seized from the premises. In view of these averments, it was alleged that the assessee was liable to pay CGST as well as SGST at prescribed rates on the taxable value of its sales for the period in question which was assessed at Rs.1,03,35,028/-.

Decision of Advance Ruling Authority :

DECISION:

It was on the basis of such materials that the adjudicating authority came to the conclusion that the petitioner was engaged in supply of packaged branded rice. The Appellate authority confirmed the finding of the adjudicating authority and dismissed the Appeal of the petitioner. The authorities did not accept the petitioner's ground of the seized rice being only for the internal use and purposes.

There is no error in the view of the authorities. Firstly, the conclusions of these authorities are based on assessment of materials on record. Secondly, the seizure of sizable quantity of packaged branded rice was an indication of the petitioner dealing in such product. Thirdly,

the tax is not demanded on rice stored and seized but on the quantity of rice already supplied which was assessed from the bill books and invoices seized from the premises of the petitioner-company. Further, the petitioner's defence that the quantity of rice lying in the godowns was merely for internal use was also not backed by any evidence. Close to three thousand bags of rice were found lying in the godown. The petitioner's bare contention that it was not meant for supply but only for internal purposes of grading the rice or part of the stock was lying because of quality disputes, was not backed by any evidence and was therefore correctly not accepted by the authorities.

The petitioner's contention that the brand was not a registered brand and therefore the petitioner had no liability to pay tax also was rightly not accepted - The brand names under which the petitioner was selling the rice may not have been registered, nevertheless it could lead to an actionable claim in a court of law. In order to avoid inviting liability of tax, the petitioner had to forgone such actionable claim which also the authorities found the petitioner had not done.

In the result, petition is dismissed.