

GIB/UP/ATIN KRISHNA/03-05-2019/HC-82

High Court Category : Taxability

State : Uttar Pradesh

Order No.: GIB/UP/ATIN KRISHNA/03-05-2019/HC-82

Name of Entry :

Atin Krishna Vs. Union Of India

Date : 03-05-2019

Breif Issue :

Facts & Issue of The Case :

DFS (Duty free shops) are supplying warehouse goods to the international arriving passengers before its clearance for home consumption .The Petitioner contented that due to mis-interpretation of the provision of CGST/SGST/IGST act, the public exchequer is being made to suffer financial loss. The petition has been filed as public interest (PIL). Through the petition so filed it has been claimed that the operator of DFS are liable to pay IGST on imported goods, which was not paid yet. The authority which was looking forward to the functioning of shops incorrectly claimed refund of ITC accumulated of GST paid .

The invoice which was issued to international passengers was incorrect as a proof of export of goods. It has also been submitted that In accordance with the section 8(1) of the IGST Act, the supply made to international passengers at the arrival terminal DFS should be considered as intra state supply ,which attract CGST and SGST under Section 9(1) of the CGST and SGST act upto 31st January,2019.

Decision of Advance Ruling Authority :

Decision :

The court held that the duty free shops are located in the custom area as per section 2(11) of the Custom Act 1962. According to the section 7(2) of the IGST Act, supply of imported goods to and from the duty free shops do not cross the customs and these supply are taken under IGST , does not attract CGST and SGST . Hence the sale/supply at the International departure terminals DFS would be export of goods under Customs Law and therefore will be considered as exports of goods under GST Act, since the definition of “export” and “export of goods” under both the laws is the same”.

As per the observation of the court the goods which was supplied by the DFS are never cleared for home consumption and the warehoused goods are exported by DFS , accordingly the levy custom duty and of the IGST do not arise.