

GIB/TN/JEYYAM/23-01-2019/HC-89**High Court Category :** HSN**State :** Tamil Nadu**Order No.:** GIB/TN/JEYYAM/23-01-2019/HC-89**Name of Entry :**

Jeyyam Global Foods (P) Ltd.

Date : 23-01-2019**Breif Issue :****Facts & Issue of the case:**

The petitioner M/s. Jeyyam Global Foods (P) Ltd. is a manufacturer of dried chick peas, gram flour, pulses and grams. They purchase chick peas, dry them by heating them to a certain degree and the resultant product is known as “Dried Chick Peas”. The petitioner filed a petition to get the impugned detention order dated 21.12.2018 quashed and to get the rate of tax/classification/HSN Code of the product in question decided.

The order is under challenge in this writ petition principally on the ground that when a bonafide dispute as to classification had arisen, it is only the jurisdictional assessing officer, who could have ruled on the classification and that it was not open to the Squad Officer to have done so. According to the petitioner, “Dried Chick Peas” would have to be classified only under **Chapter 0713 of HSN**. The petitioner had transported the dried chick peas from Salem to Dindigul without filing an E-Way bill in view of the exemption statutorily granted. While so, the consignment of the dried chick peas sent by the petitioner was intercepted by the fourth respondent on 21.12.2018. The goods were seized and detained with the vehicle in which the goods were being transported. The fourth respondent took the view that what was transported by the petitioner comes under the classification (fried or roasted grams) falling under **Chapter 2106 of HSN**.

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.

Decision of Advance Ruling Authority :**Decision**

Taking the reference from the view taken in the case of (N.V.K.Mohammed Sulthan Rawther and Sons and Willson Vs. Union of India) high court took the view that the squad officer can intercept the goods, detain them for the purpose of preparing the relevant papers for effective transmission to the jurisdictional assessing officer but It is not open to the squad officer to detain the goods beyond a

reasonable period, the final call will have to be taken only by the jurisdictional assessing officer. Commissioner of Commercial Taxes, Chennai directed to issue a circular to all the inspecting squad officers in Tamil Nadu not to detain goods or vehicles where there is a bonafide dispute as regards the exigibility of tax or rate of tax. Hence, the proceedings impugned in this writ petition stand quashed and the writ petition is allowed.