

GIB/PN/ADHUNIK/19-12-2019/HC-112

High Court Category : Search & Seizure

State : Punjab

Order No.: GIB/PN/ADHUNIK/19-12-2019/HC-112

Name of Entry :

Adhunik Crop Care Private Limited

Date : 19-12-2019

Breif Issue :

Facts & Issue of the case

The Petitioner, “Adhunik Crop Care Private Limited” is a manufacturer of insecticides. The Petitioner through this writ petition is seeking disposal of goods lying seized in its factory and direction to DGCEI to pay value of goods, which have expired and could not be sold due to seizure.

On 01.10.2015 a team of officers of Directorate General of Central Excise Intelligence (for short ‘DGCEI’) searched various premises of Petitioner and on 17.11.2015 seized stock worth MRP Rs.3.60 Crore which was lying in different godowns as well Ambala Factory of Petitioner. The Petitioner time and again requested Respondent to release seized stock and DGCEI ordered to provisionally release goods subject to payment of duty, furnishing of bond of Rs.2.52 Crore i.e. 70% of MRP and bank guarantee of 63,00,688/- i.e. 25% of bond value. Petitioner contended that on account of seizure and delayed release, the goods in question expired. There was expiry date of seized goods and on account of seizure, the season for sale was over and before the next season goods became unfit for sale.

The Petitioner to avoid rent after seeking permission from Respondent shifted seized goods from godown to factory and as on today are lying in the factory. The Petitioner contends that they could not sell goods worth MRP Rs.3.2 Crore and DGCEI is responsible for the loss of goods and thus prayer is for awarding market value of seized goods. Petitioner supported his contention with the judgment in the case of **Grosos Marketing (P) Ltd. Vs Joint Director, D.G.C.E.I., Ludhiana.**

DGCEI contended that there was no delay on the part of department. The goods were seized on 17.11.2015 and thereafter at the earliest ordered to be released on 13.04.2016. The Petitioner did not take release and filed writ before this Court and even after modification of conditions by this court did not avail release and sell goods. There is no lapse on the part of Respondent; and show cause notice dated 9.5.2016 qua confiscation is pending before Adjudicating Authority.

Decision of Advance Ruling Authority :

Decision

In considered view, **court held that DGCEI is not solely at fault and responsible for loss of goods**

as alleged by Petitioner, but Petitioner is also partially responsible. The Petitioner should and must have sold goods by availing the release as soon as provisional release order was passed. Thus, court found that Petitioner and Authority must equally bear loss of value of goods.

DGCEI seized insecticides which are having shelf life on account of expiry date. The goods were seized and provisional release order was passed after the expiry of 5 months. The value of goods and the fact that goods have become unfit for sale is not in dispute.

Also, as per Petitioner goods valued MRP Rs.3.2 Crore are still lying in the factory and DGCEI has calculated the taxable value of goods after granting abatement of 30%. Thus, value of goods in question for determination of loss would be 70% of 3.2 Crore. The court held that Petitioner is entitled to 50% of value of goods, which are lying in the factory premises of the Petitioner and the Authority shall refund in cash 50% of value of goods within one month from the date of receipt of copy of order failing which the petitioner shall be entitled to payment of interest at the rate of 9% on the aforesaid amount.