



## E-COURTS HIGH COURTS OF INDIA

### High Court of Andhra Pradesh

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#### Principal Bench at Andhra Pradesh

##### Case Details

Case Type	: WP	
Filing Number	: 23718/2022	Filing Date: 23-06-2022
Registration Number	: 17267/2022	Registration Date: 23-06-2022
CNR Number	: APHC01-029230-2022	

##### Case Status

First Hearing Date	:
Decision Date	: 14th September 2022
Case Status	: CASE DISPOSED
Nature of Disposal	: Contested--DISPOSED OF NO COSTS
Coram	: 3371C.PRAVEEN KUMAR , A V RAVINDRA BABU
Bench	: Single Bench
State	: ANDHRAPRADESH
District	: CHITTOOR
Judicial	: WRIT Section
Causelist Name	: CAUSE LIST MOTION HEARING

##### Petitioner and Advocate

1) M/s. Foods and Inns Ltd.
Advocate- ARUN SHOWRI G

##### Respondent and Advocate

1) Union of India
2) State of Andhra Pradesh
Advocate-GP FOR REVENUE
3) Goods and Service Tax Council
Advocate-GP FOR COMMERCIAL TAX
4) Central Board of Indirect Taxes and Customs (CBIC),
Advocate-SURESH KUMAR ROUTHU (SR SC FOR CBIC)
5) Appellate Authority for Advance
6) Authority for Advance

THE HONOURABLE SRI JUSTICE C.PRAVEEN KUMAR AND  
THE HONOURABLE SRI JUSTICE A.V.RAVINDRA BABU

WRIT PETITION No.17267 of 2022

ORDER:- (Per Hon'ble Sri Justice C.Praveen Kumar)

Heard Sri Mahesh Rai Chanda Nai, learned counsel representing Sri G. Arun Showri, learned counsel for the petitioner, Sri Y.N. Vivekananda, learned Government Pleader for Commercial Taxes appearing for respondents 2,5 & 6, and Sri Suresh Kumar Routhu, learned standing counsel appearing for respondents 3 & 4. Perused the record.

2. The present writ petition came to be filed under Article

226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the respondents 5 & 6 to declare the goods manufactured by the petitioner as classifiable under Chapter Heading 0804 50 40 and exempt from GST in terms of entry 51 of Notification No.2/2017-CT(Rate) dated 28.06.2017, apart

from other reliefs.

3. As seen from the record, by an order dated 27.07.2022, this Court, taking into consideration the submissions made across the Bar, directed the respondents herein not to take any coercive steps for recovery of GST @ 18%

as contemplated by them in respect of past transactions and insofar as future transactions are concerned, in view of the dispute as to whether 'mangoes' mentioned in the notification include 'mango pulp', directed that petitioner shall pay GST @ 18%.

4. The question that arises for consideration in the present writ petition is: Whether the authorities were right in charging GST, in respect of 'Mango Pulp', @ 18%?

5. Before going into the said aspect, it is to be noted here that on an application made by the petitioner before the

Authority For Advance Ruling, Andhra Pradesh, in AAR.No.16/AP/GST/2021, an order came to be passed on 07.07.2021 wherein it was held that the 'Mango pulp/puree' falls under the entry no.453 of Schedule-III of Notification

No.1/2017-Central Tax (Rate) dated 28.06.2017, attracting GST @ 18%. Aggrieved by the same, petitioner herein preferred an appeal before the Appellate Authority for Advance Ruling. An order came to be passed by the appellate authority on

20.01.2022, which reads as under:

“We hereby modify the Order passed by the Authority for Advance Ruling vide AAR.No.16/AP/GST/2021 dated 07.07.2021 and hold that the ‘Mango Pulp/Puree’ is classifiable under Tariff Item 0804 50 40 and chargeable to GST @ 18% by virtue of entry No.453 of Schedule III in Notification No.1/2017-Central Tax (Rate) dated 28.06.2017.”

6. Referring to the order passed by the Appellate Authority, learned counsel for the petitioner would submit that pending the writ petition, the Government of India, Ministry of Finance, Department of Revenue (Tax Research Unit), issued a Circular dated 03.08.2022 wherein while referring to Mangoes under CTH 0804, stated as under:

“4. Mangoes under CTH 0804 including mango pulp, but other than fresh mangoes and sliced, dried mangoes, attract GST at 12% rate:

4.1. Representations have been received seeking clarification regarding the applicable GST rate on different forms of Mangoes including Mango Pulp.

4.2. On the basis of the recommendation of the GST Council in its 22 Meeting, the GST rate on Mangoes sliced, dried', falling under heading 0804, was reduced from 12% to 5% [S. No. 30A of Schedule I of notification No. 1/2017-Central Tax (Rate) dated the 28<sup>th</sup> June, 2017]. However, the GST rate on all forms of dried mangoes (other than sliced and dried mangoes), falling under heading 0804, including mango pulp, was always meant to be at the rate of 12%.

4.3. Accordingly, it is hereby clarified that mangoes, fresh falling under heading 0804 are exempt; Mangoes, sliced and dried, falling under 0804 are chargeable to a concessional rate of 5%; while all other forms of dried mango, including Mango pulp, attract GST at the rate of 12%. To bring absolute clarity, the relevant entry at S. No. 16 of Schedule-II of notification no.1/2017-Central Tax (Rate), dated 28<sup>th</sup> June, 2017, has been amended vide notification No. 6/2022-Central Tax (Rate), dated the 13<sup>th</sup> July, 2022.

4.4. Fresh mangoes, falling under heading 0804, continue to remain exempt from GST (S.No. 51 of notification No. 2/2017-

Central Tax (Rate), dated the 28th June, 2017].”

7. From a reading of the above, it is very clear now that on the basis of recommendation of GST Council in its 22<sup>nd</sup> meeting, the GST rate on

‘Mangoes sliced, dried’ falling under heading 0804 was reduced from 12% to 5% while GST rate on all forms of dried mangoes (other than sliced and dried mangoes) falling under heading 0804, including mango pulp, was always meant to be at the rate of 12%. Therefore, the petitioner is liable to pay GST on Mango pulp @ 12%.

8. In view of the above, orders passed by the Appellate Authority for Advance Ruling imposing GST in respect of ‘mango pulp’ @ 18% is incorrect and it is made clear that the petitioner is liable to pay GST in respect of Mango pulp @ 12%.

9. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this Writ Petition shall stand closed.

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JUSTICE C.PRAVEEN KUMAR

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JUSTICE A.V.RAVINDRA BABU

14.09.2022

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THE HONOURABLE SRI JUSTICE C.PRAVEEN KUMAR AND  
THE HONOURABLE SRI JUSTICE A.V.RAVINDRA BABU

WRIT PETITION No.17267 of 2022

Date : 14.09.2022

Vjl