

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

MAIN CASE No.: W.P. No. 17267 of 2022

PROCEEDING SHEET

Sl. No	DATE	ORDER	
		<p><u>CPK, J & TRR, J</u></p> <p><u>W.P. No. 17267 of 2022</u></p> <p>Notice before admission.</p> <p>Heard learned Counsel appearing for the Petitioner; Sri. Y.N. Vivekananda, learned Government Pleader for Commercial Tax, takes notice on behalf of Respondent No. 2, 5 & 6; Sri. N. Harinath, learned Assistant Solicitor General, takes notice on behalf of Union of India; and Sri. Suresh Kumar Routhu, learned Standing Counsel, takes notice for other Respondents.</p> <p>The question that arises for consideration is, <i>whether the Petitioner is liable to pay G.S.T. @ 18% as per the advance ruling or 12% in terms of the Notification issued?</i></p> <p>Learned Counsel for the Petitioner mainly submits that, though advance ruling postulate payment of 18%, but the recommendations of the 47th G.S.T. Council Meeting clearly spell out that G.S.T. shall be @ 12% in respect of “Mango Pulp” as well. He took us through the recommendations of the Council and the Notification issued by the Government of India, Ministry of Finance, dated 13.07.2022, in</p>	

support of the plea. According to him, the Petitioner is paying G.S.T. @ 12% right from introduction of G.S.T. in the year 2017 and its payment is fortified by the present Circular.

Sri. Y.N. Vivekananda, learned Government Pleader for Commercial Tax, opposed the same contending that, if really the Notification of the Government relates to payment of 12% for Mango Pulp, the Notification, dated 13.07.2022, would have incorporated the same in Schedule-II. On the other hand, what all it says is “Mangoes [other than mango sliced, dried]. Therefore, the recommendations though postulate payment of G.S.T. for “Mango Pulp” @ 12%, but the recommendation is silent. Even otherwise, he would contend that the recommendations made by the Government are only recommending in nature and the Court has to see the Act and the Legislations for fixing the percentage of tax to be paid.

A perusal of the record *prima facie* shows that, though, the Petitioner has been paying G.S.T. @ 18% in the VAT regime, started paying G.S.T. @ 12% after switching over from VAT regime to G.S.T. regime. There was no basis for them to switch over to payment of 12%. It is no doubt true that the recommendations of 47th G.S.T. Council Meeting indicate that G.S.T. on

all forms of mango under CTH 0804, including mango pulp (other than mangoes sliced, dried) attract G.S.T. @ 12% and entry to that affect is sought to be made. But the Notification issued by the Government on 13.07.2022 does not anywhere refer to “Mango Pulp” in Schedule-II. It only says “mangoes (other than mangoes sliced, dried)”.

Having regard to the above, the Respondents herein shall not take any coercive steps for recovery of G.S.T. @ 18% as contemplated by them in respect of past transactions. Insofar as future transactions are concerned, in view of the dispute as to whether “mangoes” mentioned in the Notification include “Mango Pulp”, we are of the view that the Petitioner shall pay 18% of G.S.T. for all its future transactions.

Accordingly, I.A. is ordered.

List the Writ Petition for final hearing after four [04] weeks; meanwhile, counters, if any, to be filed.

CPK, J

TRR, J

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