(2021) 12 CHH CK 0028

In the Chhattisgarh High Court

Case No : Writ Petition (C) No. 5250, 5254, 5256 Of 2021

Jai Durga Rice Mill — APPELLANT

Vs

State Of Chhattisgarh — RESPONDENT

Date of Decision : 16-12-2021

Acts Referred:

Chhattisgarh Krishi Upaj Mandi Adhiniyam, 1972 — Section 19(1)(ii)

Citation : (2021) 12 CHH CK 0028

Hon'ble Judges : P. Sam Koshy, J

Bench : Single Bench

Final Decision : Disposed Of

Judgement

1. Since common facts and issues are involved in all these writ petitions, they are being disposed of by this common order.

2. The writ petitions have been filed for the following relief(s)-

"10.2. To issue a writ of appropriate nature directing the respondent to suspend and not to invoke Section 19(1)(ii) of the Chhattisgarh Krishi Upaj Mandi Adhiniyam, 1972 for the levy of market fee on the petitioner for paddy brought from outside the State for processing and manufacturing where transaction has not taken place with the market area being arbitrary and illegal."

3. The petitioners seem to be apprehending levy of market fees by the respondent No.3. for the paddy which they intend to mill at their Rice Mills which is coming from outside the territories of the State of Chhattisgarh. Learned counsel for the petitioners referring to the judgment of Supreme Court in case of Gujarat Ambuja Exports Limited and Another Vs. State of Uttarakhand and Others, 2016 (3) SCC 601 submits that the pari-materia provision applicable in the State of Uttarakhand has already been struck down by the Supreme Court in the aforesaid judgment. That, further on the basis of the aforesaid judgment in the case of Gujarat Ambuja (Supra) the Division Bench of this High Court also in bunch of writ petitions, leading case of which being WPC No.1207 of 2019 (Shree

Sita Agro Tech Pvt. Ltd. Vs. State of Chhattisgarh & Others) decided on 08.05.2019, have reiterated the stand taken in the said judgment and have in paragraphs 5&6 held as under:

"5. In view of the statement made, we dispose of all the Writ Petitions with the direction that the respondents shall not invoke Section 19 (1) (ii) of the Adhiniyam, 1972 for levy of market fee on the petitioners for paddy brought from outside the State for processing and manufacturing where transaction has not taken place within the market area.

6. If the statute permits levy of market fees for any other transaction, than what is covered under Section 19 (1) (ii) of the Adhiniyam, 1972, the concerned market committee would be at liberty to consider the same on transaction basis."

4. Today, learned counsel appearing for respondent No.3 as also the counsel for State make a statement that both the State of Chhattisgarh as also the respondent No.3 have been abiding by the judgment of Division Bench in case of Shree Sita Agro Tech (Supra). The whole contention of the counsel appearing for the respondents are that the respondents under no circumstances would be levying market fees on the paddy which is being brought from outside of territories of the State of Chhattisgarh only for the purpose of milling and manufacturing subject to the finish product i.e. rice or paddy not being sold or transacted in any manner within the territories of the State of Chhattisgarh. According to the respondents counsel, if the petitioners after milling sends back the finished product to the place where if came from for milling the market fees will not be levied otherwise the product becomes leviable.

5. The apprehension raised by the learned counsel for the respondents have been squarely dealt with in the aforementioned judgment of Division Bench of this High Court in Shree Sita Agro Tech (Supra).

6. Given the aforesaid statements made by the counsel appearing for the respondents and the stand that have been taken by the respondents, the petitioners should not have any apprehension as of now so far as the respondents levying market fees on paddy which is being brought from outside the territories of the State of Chhattisgarh into the petitioners establishment only for milling/processing/manufacturing and thereafter returning it back to the source from where it has come. However, the petitioners would be subjected to levy of any other tax or fees, as the case may be, in case if the paddy which has been brought from outside the territories of the State of Chhattisgarh is being sold either in the form of paddy or in the form of finished product after processing within the State of Chhattisgarh.

7. With the aforesaid observations and the judgment referred to in the preceding paragraphs, all the writ petitions stand disposed of.

