(2013) 01 P&H CK 0005

In the Punjab And Haryana At Chandigarh

Case No : VATAP No''s. 153 to 164 of 2012

Jay Vee Rice and General Mills — APPELLANT

Vs

State of Haryana and Others — RESPONDENT

Date of Decision : 23-01-2013

Acts Referred:
Haryana Value Added Tax Act, 2003 — Section 36(1)

Citation : (2013) 63 VST 155

Hon'ble Judges : Ritu Bahri, J;Hemant Gupta, J

Bench : Division Bench

Advocate : Suresh Yadav, for the Appellant; Nitin Kaushal, Additional Advocate-General, Haryana, for the Respondent

Judgement

Ritu Bahri, J.—This order shall dispose of the above-mentioned value added tax (for short, "the VAT") appeals filed u/s 36(1) of the Haryana Value Added Tax Act, 2003 (for short, "the Act") against the order dated May 18, 2012 (annexure P4) passed by the Haryana Tax Tribunal (for short, "the Tribunal") in Appeal No. 951 of 2009-10.

The following questions of law have been raised in appeal:

(a) Whether, on the basis of phraseology, used in Note (1) appended to Schedule III of the levy order for crop year 1999-2000 (annexure A1), can it be said that sale price of rice prescribed in Schedule III included any amount as purchase tax on paddy?

(b) Whether can it be held that while receiving sale price of levy rice from Government as per Schedule III for crop year 1999-2000 any amount was charged, collected or received by the appellant ''as purchase tax on paddy''?

(c) Whether Note (i) appended to the notification for crop year 1998-99 (A5) and Note (1) appended to notification for crop year 1999-2000 (A1) have the same meaning?

(d) Whether the learned Tribunal was justified in relying on the decision of the apex court in Jay Vee Rice and General Mills Vs. State of Haryana and Others, which pertained to different assessment years wherein Note (i) contained totally different phraseology?

(e) Whether the order of the Tribunal, annexure A4 is legal and justified and sustainable in the eyes of law?

2. The appellant owns a rice mill and is engaged in the business of manufacturing of rice apart from purchase and sale of paddy and rice.

3. The Tribunal while examining the language implied in two orders by fixing the procurement price of rice by the Government in the year 1998-99 and 1999-2000 crop year held that they were similar and conveyed the factual position correctly that once the rice was purchased by the Government agencies from the rice mills, the price included the payment of purchase tax on paddy. The mill was, therefore, required to deposit with the Government exchequer the purchase tax. Retention of such purchase tax collected would amount to enrichment which was not permissible. The Tribunal after examining both the orders has observed as under:

A comparison of the two orders for 1999-2000 crop and 1998-99 crop would show that in the former case procurement price of rice is exclusive of taxes, if any, leviable at rice stage while in the latter case it includes purchase tax on paddy. In the former case, procurement price of rice exclusive of tax at rice stage would necessarily mean inclusive of all costs, taxes and charges till the rice stage, so this would purchase tax on paddy. It may be added there was no change in the levy of tax on purchase of paddy during rice crop year 1998-99 compared to rice crop year 1999-2000.

4. The relevant extracts from the notifications dated April 21, 1999 and December 27, 1999 are as under:

5. A perusal of the above notifications shows that in the first notification, incidence of tax is on the price of rice, which is inclusive of purchase tax and mandi charges of paddy, whereas second notification is incidence of tax at the rice stage, which is exclusive of taxes. Both the notifications convey the same thing, but in different language. One is on the paddy, which is inclusive of purchase tax, whereas the rice is exclusive of taxes. In fact, learned counsel for the appellants could not raise any meaningful argument pointing out the distinction between the incidences of taxes in two notifications.

6. In view of the above, we do not find that any substantial question of law arises for consideration by this court in the present appeals. Dismissed.

