

(2022) 05 SHI CK 0072

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No.3255 Of 2022

Sukhjit Agro Industries, Village Gurplah

APPELLANT

Vs

Commissioner, CGST, Ground And First Floor And Others

RESPONDENT

Date of Decision : 24-05-2022

Acts Referred:

Citation : (2022) 05 SHI CK 0072

Hon'ble Judges : Mohammad Rafiq, CJ;Sandeep Sharma, J

Bench : Division Bench

Advocate : B.C. Negi, Nitin Thakur, Vijay Arora, Vikas Rathore

Final Decision : Disposed Of

Judgement

Mohammad Rafiq, CJ

1. This writ petition has been filed by petitioner-Sukhjit Agro Industries, Village Gurplah, Tehsil Haroli, District Una, H.P., through its vice President, challenging Show Cause Notice dated 03.03.2022 (Annexure P-2).

2. Learned Senior Counsel for the petitioners submitted that although the aforesaid communication has been described as Show Cause Notice, but the tone and tenor of the same indicates that the respondents have made their final mind and it would be a mere formality for the petitioners to appear before the respondents and make submissions. It is also argued that the petitioner-Company is engaged in the manufacture and supply of maize starch and its derivatives such as liquid glucose, destrose, monohydrate, maltodextrin power, dextrin alongwith by-products namely maize gluten, maize germ, maize barn coarse/fine (wet and dry grinded form), anaerobic sludge, maize residual khapra/maize, broken/maize, waste/maize residual cutting etc. He further argued that all the products manufactured by the petitioner-Company fall under the exempted category as per classification of the products given in Notification dated 28.06.2017.

3. Learned Counsel for the respondents has opposed the writ petition and submitted that the observations made in the Show Cause Notice are only tentative in nature and that no final view has been taken by the Authorities, which would be evident from what has been stated in para-11 of the Show Cause Notice that if the petitioner wants to furnish any evidence in support of its defence, it can do so in the reply to the show cause notice and it is also mentioned that if the petitioner wants to be heard in person, it should clearly indicate the same in the reply to the Show Cause Notice. If no show cause notice is shown/given against the action proposed to be taken within and stipulated period and/or if the petitioner fails to appear before the adjudicating authority when the case is posted for hearing, only then, the case would be decided ex-parte on the basis of evidence already available on records by the Competent Authority.

4. Having regard to the clarification given by the learned Counsel for the respondents, but without expressing any opinion on merits of the case, we dispose of this writ petition, requiring the petitioner to appear before the Competent Authority on 30.05.2022 and the fact that the period of 30 days as envisaged in the Show Cause Notice, as alleged, would not be an impediment for the Competent Authority for deciding the matter now in his discretion on merits, after taking into consideration the submissions made by the petitioner by a speaking order.

5. Pending application(s), if any, also stands disposed of.

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