

[2024] 159 taxmann.com 342 (Andhra Pradesh)/[2024] 102 GST 762 (Andhra Pradesh)/[2024] 83 GSTL 263 (Andhra Pradesh)[07-02-2024]

GST : Where Assessing Authority had levied GST on value of by-products i.e., broken rice, bran and husk treating them as part of consideration paid to assessee rice-miller for milling of paddy of State civil supplies corporation, impugned order was to be set aside in view of judgment passed in Shiridi Sainath Industries v. Dy. CST (International Taxation) [2020] 122 taxmann.com 25/[2021] 83 GST 566/2021 (51) G.S.T.L. 374 (Andhra Pradesh) where in similar circumstances it was found that assessee was allowed to retain broken rice as part of compensation in lieu of shortfall in yield replenished by assessee by incurring expenditure out of its own pocket

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[2024] 159 taxmann.com 342 (Andhra Pradesh)

HIGH COURT OF ANDHRA PRADESH

Chandra Sekhara Rice Merchant

v.

Assistant Commissioner (State Taxes)*

U. DURGA PRASAD RAO AND SMT. KIRANMAYEE MANDAVA, JJ.

WRIT PETITION NO. 1632 OF 2024

FEBRUARY 7, 2024

Milling of Paddy - By-products - Valuation - Impugned assessment order was passed by Assistant Commissioner levying GST on value of by-products, i.e., broken rice, bran and husk retained by assessee-miller treating them as part of consideration paid to assessee for milling of paddy - HELD : Matter was covered in judgment passed in Shiridi Sainath Industries v. Deputy Commissioner of Services Tax (International Taxation) [2020] 122 taxmann.com 25 (Andhra Pradesh) where in similar circumstances it was found that assessee was allowed to retain broken rice as part of compensation in lieu of shortfall in yield replenished by assessee by incurring expenditure out of its own pocket - Impugned assessment order was to be set aside [Section 15 of Central Goods and Services Tax Act, 2017/Andhra Pradesh Goods and Services Tax Act, 2017 - Article 226 of Constitution of India] [Paras 2 and 3] [In favour of assessee]

CASE REVIEW

Shiridi Sainath Industries v. Dy. CST (International Taxation) [2020] 122 taxmann.com 25/[2021] 83 GST 566/2021 (51) G.S.T.L. 374 (AP.) (para 2) followed.

CASES REFERRED TO

Shiridi Sainath Industries v. Dy. CST (International Taxation) [2020] 122 taxmann.com 25/[2021] 83 GST 566/2021 (51) G.S.T.L. 374 (AP.) (para 2)

ORDER

U. Durga Prasad Rao, J. - In this writ petition filed under Article 226 of the Constitution of India, the petitioner seeks the following relief:

"pleased to issue a Writ of Mandamus or any other appropriate Writ or order or direction setting aside the orders of the 1st Respondent dated 24.09.2019 for the period July 2017 to November 2018 CGST and SGST as illegal arbitrary and contrary to law in gross violation of principles of natural justice and without authority of law and jurisdiction and set aside the same and consequently declare that the Petitioner is not liable to GST on the byproducts retained by the 2nd Respondent Corporation or in the alternative direct the 2nd Respondent Corporation to bear the liability if it is held to be payable"

2. When the matter is listed, both the learned counsel for petitioner as well as learned Government Pleader for Commercial Taxes would admit that the subject matter of this Writ Petition is covered by the order dated 20.11.2020 in W.P.No.45971/2018 *Shiridi Sainath Industries v. Dy. CST (International Taxation)* [2020] 122 taxmann.com 25/[2021] 83 GST 566/2021 (51) G.S.T.L. 374 (AP.) passed by the Division Bench of this High Court.

3. In that view, in terms of the said order and for the reasons mentioned therein, this Writ Petition is allowed and the impugned Assessment Order dated 24.09.2019 passed by the 1st respondent in so far its relates to levy of GST on the value of the by-products i.e., broken rice, bran and husk treating them as part of the consideration paid to the petitioner for milling of the paddy is set aside. No costs.

As a sequel, interlocutory applications pending, if any, in this case shall stand closed.

ANURAG

*In favour of assessee.