[3401]

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)

WEDNESDAY ,THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND TWENTY THREE

:PRESENT:

THE HONOURABLE SRI JUSTICE A V SESHA SAI

AND

THE HONOURABLE SRI JUSTICE VENUTHURUMALLI GOPALA KRISHNA RAO

WRIT PETITION NO: 4281 OF 2023

Between:

1. M/S. Sentini Bioproducts Private Limited, Survey No. 224, 226 Gandepalli Village, Kanchikacherla Mandal, Krishna, 521185, GSTIN. 37AAJCS0509P1ZW Represented by its Vice President (Finance). Mr. Anne Satyanarayana Vara Prasad.
2. Anne Satyanarayana Vara Prasad, S/o Anne Paddaiah (Late), aged about 63 years, R/o Flat No. F3, Srinivasa Apartment, YellareddyGuda, Hyderabad, Telangana

Petitioners

AND

1. The State of Andhra Pradesh, Represented by its Principal Secretary, Revenue Department (CT), A.P. Secretariat, Velagapudi
2. Union of India, Represented by its Secretary, Ministry of Finance, Revenue Department, Central Secretariat, New Delhi
3. Central Board of Indirect Taxes and Customs (CBIC), Department of Revenue, Ministry of Finance, Government of India.
4. The GST Council, 5th Floor, Tower II, Jeevan Bharti Building, Janpath Road, Connaught Place, New Delhi-110 001.
5. Additional Commissioner (ST), O/o Appellate Authority, Vijayawada.
6. Assistant Commissioner (ST), Ibrahimpatnam Circle, Bhavanipuram, No.1 Division, Vijayawada.
7. Joint Commissioner(ST), No.1 Division, Vijayawada,

Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 3rd Respondent in issuing the Impugned Circular No. 163/19/2021-GST dated 06.10.2021, so far as it seeks to levy GST at 5percent on DDGS and DWGS, as illegal, arbitrary and unconstitutional and set aside the same, and further declare the Order dated 14.11.2022 passed by the 5th Respondent in Form GST APL-04 bearing CTD Order Reference No. DIN3714112293010 seeking to levy of GST on DDGS/DWGS and the consequential Demand Notice dated 13.12.2022 in FORM GST DRC-13 bearing Reference No. SA.3?SENTINI BEVERAGES PRIVATE LIMITED/2022 DIN3713122252517 issued by the 6th Respondent as illegal, arbitrary, unconstitutional and contrary to various precedents laid down in the subject matter and to set aside the same

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondents not to take any coercive steps against the Petitioners pursuant to the Order vide FORM GST APL — 04 bearing CTD Order Reference No. D1N3714112293010 dated 14.11.2022 and FORM GST DRC-13 dated 13.12.2022bearing Reference No. SA.3?SENTINI BEVERAGES PRIVATE LIMITED/2022 DIN3713122252517issued by the 5th and 6th Respondents, respectively, in the interest of justice, Pending disposal of WP 4281 of 2023, on the file of the High Court.

IA NO: 2 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay the operation of the Order dated 14.11.2022passed by the 5th Respondent. vide FORM GST APL —04 bearing CTD Order Reference No. DIN3714112293010in the interest of justice, Pending disposal of WP 4281 of 2023, on the file of the High Court.

IA NO: 3 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of the FORM GST DRC-13 dated 13.12.2022bearing Reference No. SA.3? SENTINI BEVERAGES PRIVATE LIMITED/2022 D1N3713122252517 issued by the issued by the 6th Respondents in the interest of justice, Pending disposal of WP 4281 of 2023, on the file of the High Court.

IA NO: 4 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of the Impugned Circular No. 163/19/2021-GST dated 06.10.2021, so far as it seeks to levy GST at 5 % on DDGS and DWGS, in the interest of justice, Pending disposal of WP 4281 of 2023, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri Vivek Chandra Sekhar S Advocate for the Petitioners, Sri T.C.D. Sekhar, learned Government Pleader for Commercial Taxes for respondent Nos.1,5 to 7, Sri N. Harinath, learned Deputy Solicitor General of India for respondent No.2, Sri Suresh Kumar Routhu, learned Senior Standing Counsel for respondent Nos.3 & 4, and the Court made the following

ORDER

"Sri T.C.D. Sekhar, learned Government Pleader for Commercial Taxes, takes notices for respondent Nos.1,5 to 7.

Sri N. Harinath, learned Deputy Solicitor General of India, takes notice for respondent No.2.

Sri Suresh Kumar Routhu, learned Senior Standing Counsel, takes notices for respondent Nos.3 & 4.

Office to show the name of Sri N. Harinath, learned Deputy Solicitor General of India, in the cause list.

It is brought to the notice of this Court that in similar circumstances in W.P.Nos.19022 of 2022 and batch, this Court on 17.08.2022 passed an interim order. A copy of the said order is placed on record.

Following the said order and for the reasons recorded therein, there shall be a direction to the respondents not to take coercive steps against the petitioners for recovery of tax for the product DDGS/DWGS only.

Post the matter along with W.P.No.19022 of 2022 and batch."

SD/-SK.MD.RAFI
ASSISTANT REGISTRAR

//TRUE COPY//

For ASSISTANT REGISTRAR

To,

1. The Principal Secretary, Revenue Department (CT), State of Andhra Pradesh, A.P. Secretariat, Velagapudi
2. Secretary, Ministry of Finance, Revenue Department, Union of India , Central Secretariat, New Delhi
3. Central Board of Indirect Taxes and Customs (CBIC), Department of Revenue, Ministry of Finance, Government of India.
4. The GST Council, 5th Floor, Tower II, Jeevan Bharti Building, Janpath Road, Connaught Place, New Delhi-110 001.
5. Additional Commissioner (ST), O/o Appellate Authority, Vijayawada.
6. Assistant Commissioner (ST), Ibrahimpatnam Circle, Bhavanipuram, No.1 Division, Vijayawada.
7. Joint Commissioner(ST), No.1 Division, Vijayawada,(**1 to 7 by RPAD)**
8. One CC to Sri Vivek Chandra Sekhar S Advocate [OPUC]
9. Two CCs to Government Pleader for Commercial Taxes,High Court Of Andhra Pradesh. [OUT]
10. One CC to Sri N. Harinath, Deputy Solicitor General of India [OPUC]
11. One CC to Sri Suresh Kumar Routhu, Senior Standing Counsel [OPUC]
12. Two spare copies.

RVK

HIGH COURT

AVSS,J & VGKR,J

DATED:22/02/2023

POST THE MATTER ALONG WITH W.P.NO.19022 OF 2022 AND BATCH

ORDER

WP.No.4281 of 2023

DIRECTION

HIGH COURT OF ANDHRA PRADESH
SPECIAL CELL
02 MAR 2023
DESPATCHED