

ITEM NO.15 Court 6 (Video Conferencing) SECTION XII-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).4146/2021

(Arising out of impugned final judgment and order dated 20-11-2020 in WP No. 45971/2018 passed by the High Court of Andhra Pradesh at Amravati)

THE DEPUTY COMMISSIONER (ST) (INT) & ORS. Petitioner(s)

VERSUS

M/S SHIRIDI SAINADH INDUSTRIES & ORS. Respondent(s)

(WITH I.R.)

Date : 15-03-2021 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE M.R. SHAH

For Petitioner(s) Mr. Mahfooz Ahsan Nazki, AOR
 Mr. Polanki Gowtham, Adv.
 Mr. Shaik Mohamad Haneef, Adv.
 Mr. T. Vijaya Bhaskar Reddy, Adv.
 Mr. Amitabh Sinha, Adv.
 Mr. Shrey Sharma, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

1 Mr Mahfooz Ahsan Nazki, learned counsel appearing on behalf of the petitioners, submits that:

- (i) Section 2(31) of the Goods Service Tax Act 2017 defines the expression "consideration" to include any payments made or to be made whether in money or otherwise;

- (ii) In the present case, under Clause 17 of the agreement with the rice miller, the Corporation was to pay milling charges, as fixed by the government;
 - (iii) Under Clause 22, the mill is to retain all bi-products, such as broken rice, bran and husk and hence its value forms part of the consideration;
 - (iv) A petition was entertained by the High Court directly under Article 226 of the Constitution, when the respondents had not exhausted the remedies by way of an appeal against the assessment.
- 2 On the above premises, it has been submitted that the value of the broken rice, bran and husk is liable to be taken into account in determining the consideration which is payable in terms of Section 2(31) of the Goods Service Tax Act 2017 and the High Court has erred in holding that in terms of Clause 17 of the agreement, the consideration was only the price for milling of paddy, as fixed.
- 3 Issue notice, returnable in eight weeks.
- 4 Dasti, in addition, is permitted.
- 5 The respondents shall file their counter affidavit within a period of three weeks from the date of service.
- 6 Till the next date of listing, no coercive steps shall be taken against the petitioners on the basis of the impugned judgment and order of the High Court dated 20 November 2020 in WP No 45971 of 2018.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER