IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-10986 of 2016
Date of Decision: 16.10.2018

Shri Jaipal Dabra

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present:- Ms. Vijaya Singh, Advocate,
for Mr. Chetan Dayal, Advocate, for the petitioner.
Mr. Amandeep S. Gill, DAG, Punjab.
None for respondents No.2 and 3.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C. prayer has been made for quashing criminal complaint No.1766/2016 dated 03.03.2016 titled as "Central Excise Commisionerate, Jalandhar v. M/s Dunar Foods Limited and others" under Sections 9 and 9AA of the Central Excise Act, 1944 (in short the 'Act') pending in the Court of learned Chief Judicial Magistrate, Amritsar.

Briefly, Central Excise Commissionerate, Jalandhar, through its Inspector filed a complaint against the petitioner and three more under Sections 9 and 9AA of the Act on the allegations that they were removing excisable goods without payment of appropriate central excise, thereby contravening the provisions of Section 9 and 9AA of the Act.

Learned counsel for the petitioner, referring to Annexure P-11, annexed with the rejoinder filed by the petitioner, urged that Customs, Excise & Service Tax Appellate Tribunal vide judgment dated 22.09.2016 held that rice is not an excisable good. The said order was challenged by the complainant in the Hon'ble Supreme Court by way of Civil Appeal D. No.5237 of 2017, but remained unsuccessful as the same was dismissed vide order dated 03.04.2017. Therefore, order dated 22.09.2016 of the Tribunal has attained finality. Consequently, impugned complaint filed at the behest of respondent No.3 is liable to be quashed.

Above factum has gone unrefuted on behalf of the respondents.

In view of above factual aspect of the case, instant petition is accepted in toto. Impugned complaint No.1766/2016 dated 03.03.2016 titled as “Central Excise Commisionerate, Jalandhar v. M/s Dunar Foods Limited and others” under Sections 9 and 9AA of the Central Excise Act, 1944 (in short the 'Act') pending in the Court of learned Chief Judicial Magistrate, Amritsar, is quashed along with consequential proceedings arising therefrom.

(RAMENDRA JAIN)
JUDGE

October 16, 2018
R.S.

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No