



W.P(MD)No.18073 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**RESERVED ON : 22.08.2022
DELIVERED ON : 08.09.2023**

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.18073 of 2022

and

W.M.P(MD)No.13182 of 2022

M/s.V.V.V & Sons Edible Oils Limited,
Represented by its Director,
No.443 Bazaar,
Virudhunagar – 626 001.

... Petitioner

Vs

1.The State represented by
The Secretary,
Agriculture and Farmers Welfare Department,
Fort St.George,
Chennai.

2.The Director of Agricultural Marketing,
Thiru-Vi-Ka Industrial Estate,
Guindy, Chennai – 600 032.

3.The Secretary,
Virudhunagar Market Committee,
Virudhunagar.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Prohibition, to prohibiting the respondents from



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levying and collecting any fee invoking the provisions of Tamil Nadu Agricultural Produce Marketing (Regulations) Act, 1987 in respect of buying and selling of gingelly seeds from outside the State of Tamil Nadu.

For Petitioner : Mr.R.L.Ramani
Senior Counsel
for Mr.S.Raja Jeya Chandra Paul

For Respondents : Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.D.Gandhiraj
Special Government Pleader

ORDER

Heard the learned Senior Counsel appearing for the writ petitioner and the learned Additional Advocate General assisted by the learned Special Government Pleader appearing for the respondents.

2. The only question that calls for consideration is whether the respondents should be restrained from levying and collecting any fee by invoking the provisions of Tamil Nadu Agricultural Produce Marketing (Regulations) Act, 1987 in respect of buying Gingelly Seeds from outside the state of Tamil Nadu. The petitioner's place of business is at Virudhunagar which is a notified market area.



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3. The respondents proposed to take action under G.O(Ms)No.84 Agriculture and Farmers Welfare Department dated 23.04.2022. That led to the filing of this writ petition. During the pendency of the writ petition, G.O(Ms)No.1 dated 03.01.2023 was issued repealing G.O(Ms)No.84 Agriculture and Farmers Welfare Department dated 23.04.2022. But then as rightly pointed out by the learned Additional Advocate General, Gingelly Seeds are the subject matter of levy vide G.O(Ms)No.64 Agriculture Department dated 27.05.2014. Therefore, I called upon the learned Senior Counsel appearing for the petitioner to argue the case on merits.

4. It is not in dispute that the charging provision is Section 24 of Tamil Nadu Agricultural Produce Marketing (Regulations) Act, 1987. Section 24(1) of the Act is as follows:

“24. Levy of fee by market committee.- (1) The market committee shall levy a fee on any notified agricultural produce bought or sold in the notified market area at a rate not less than one rupee but not exceeding two rupees for every hundred rupees of the aggregate amount, for which the notified agricultural produce is bought or sold whether for cash or for deferred payment or other valuable consideration :



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Provided that, when any agricultural produce brought into any notified market area for the purpose of processing only, or for export is not processed or exported therefrom within thirty days from the date of its arrival therein, it shall, until the contrary is proved, be presumed to have been brought into such notified market area for buying and selling, and shall be subject to the levy of fee under this section on the value of the agricultural produce, as if it has been bought and sold therein.

Explanation I. For the purposes of this sub-section, all notified agricultural produces taken out or proposed to be taken out of a notified market area shall, unless the contrary is proved, be presumed to be bought or sold within such area.

Explanation II. - In the determination of the amount of the fee payable under this Act. any fraction of ten paise less than five paise shall be disregarded and any fraction of ten paise eared to or exceeding five paise shall be regarded as ten paise.

“Provided further that no fee shall be levied more than once on any notified agricultural produce bought or sold in any notified market area within the State.”



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The petitioner for the purpose of their business purchase Gingelly Seeds from three sources.

- a) Outside the state of Tamil Nadu;
- b) Within the notified market area;
- c) Outside the notified market area.

It is stated that a portion of the seeds so purchased are retained by the petitioner for extracting Gingelly oil. The remaining portion is divided into two. One part is sold in the market under the brand name of Sambandhi ell. The remaining portion is also sold in the open market.

5. Section 24(1) of the Act can be applied only in respect of those notified agricultural produce bought or sold in the notified market area. I therefore hold that in respect of Gingelly Seeds purchased from outside the State of Tamil Nadu, the same cannot be considered as agricultural produce bought or sold in the notified market area. But then the Proviso 2 Section 24(1) of the Act will kick in. The proviso will apply even in respect of the agricultural produces brought into any notified market area. Of course, if it is processed or exported in unprocessed form within 30 days, the same will not be subjected to any levy. But if it is not processed or not exported within 30 days, it is subject to levy.



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6. The learned Senior Counsel appearing for the petitioner would point out that doubt levy is forbidden. I endorse the said contention. But the petitioner cannot avoid the consequence of levy by claiming that the agricultural produce purchased by them from the local market will get mingled with what is purchased from outside the State and that therefore there is prospect of there being a double levy.

7. The petitioner cannot take advantage of their own conduct. The petitioner will have to maintain proper accounts. In respect of the agricultural produce that has already been processed within 30 days, there will not be levy. It is for the petitioner to furnish proper details. I cannot issue any blanket restraint order against the respondents. I only direct the respondents to invoke the Proviso to Section 24(1) by bearing in mind the Proviso to Explanation II in the light of the facts and figures to be furnished by the writ petitioner.

8. This writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

08.09.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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To

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Agriculture and Farmers Welfare Department,
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Chennai.
- 2.The Director of Agricultural Marketing,
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G.R.SWAMINATHAN, J.

MGA

Pre-delivery Order made in
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