

WP(C) 4221/2010

BEFORE

HON'BLE MRS. JUSTICE ANIMA HAZARIKA

Heard Md.Asalam learned counsel appearing for the petitioner. Also heard Mr.D.Saikia learned Standing Counsel, Finance(Taxation)Department.

Having regard to the issues raised and the relief sought for, this petition is being disposed of at the motion stage.

The present grievance of the petitioner relates to the demand made by the concerned revenue authorities for security and movement certificate(s) for the transportation of the goods outside the State, which they contend is in violation of the mandatory provision of the Assam Value Added Tax Act and the Rules framed thereunder, as well as the Central Tax Act, 1956.

Shortly put, the facts necessary for the order proposed, is that the petitioner is a trader engaged, amongst others, in the act of dispatching jute to destinations outside the State in course of its interstate trade and commerce. It is also a registered dealer under the Central Sales Tax Act, 1956(for short hereafter referred to as the Act) and is subject to the jurisdiction of the Superintendents of Taxes,Dhubri namely, Boxirhat Check Post and Damra Check Post. It had been in response to the demand for security for the truck load of jute dispatched outside the State, depositing an amount of Rs.5,000/- per truck(which has since enhanced to Rs.6,500/-) with effect from 13.2.2009.

Md.Asalam, while reiterating the above, has relied on a decision of this Court rendered in in WP(C) 1080/2009,M/s Piya Trading Co. Vs. the State of Assam & Ors., since disposed of on 3.7.2009, to underlined the requirement of prior notice before realization of security in terms of Section 7(3) (b) of the Act as above.

Mr Saikia, learned Standing Counsel, Finance Department submits that the petitioner's grievance based on Section 7(3)(b), is well founded in view of the decision of this Court in M/S Piya Trading (Supra).

In the above view of the matter, this petition stands closed with a direction to the concerned revenue authority i.e. the Superintendents of Taxes of Dhubri, Superintendent of Taxes, Boxirhat Check Post and Superintendent of Taxes, Damra Check Post to afford due opportunity to the petitioner as contemplated under Section 7(3)(b) of the Act before demanding and realizing additional security from it in course of its business of transportation of truck load of jute to the destinations outside the State of Assam.

The petition stands disposed of in the above terms. No costs.