

WP(C) 1313/2010

BEFORE

THE HON'BLE MR. JUSTICE AMITAVA ROY

Heard Ms. Gope, learned counsel for the petitioner and Mr. D Saikia, learned Standing Counsel, Education Department, Assam.

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

Shortly put the facts necessary for the order proposed, are that the petitioner is a trader engaged, amongst others, in the act of dispatching supari 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 Superintendent of Taxes, Boxirhat. Its grievance, in substance, is that, additional security under the Act is being demanded from it in excess of the due and also without complying with the requirement of prior notice as envisaged under section 7(3)(b) of the Act.

Ms. Gope, while reiterating the above, has sought to reinforce her submission by relying on a decision of this Court rendered in WP(C) No. 1080/2009, M/s. Piya Trading Co. Vs. the State of Assam & Ors., since disposed of on 03.07.2009, which amongst others, has underlined the requirement of prior notice before realizing 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 Superintendent of Taxes, Boxirhat 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 supari to the destinations outside the State of Assam.

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