



CGHC010283002023



2026:CGHC:37254-DB

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HIGH COURT OF CHHATTISGARH AT BILASPUR

TAXC No. 132 of 2023

M/s Ultratech Cement Ltd. (Unit Baikunth Cement Works) (Formerly Known As Century Cement) (Prop. Century Textiles And Industries Ltd.) Baikunth, Tilda, Raipur (C.G.)

--- Applicant (s)

versus

Commissioner Commercial Taxes Chhattisgarh Chhattisgarh Dy.
Commissioner (Appeals) Raipur

--- Non-applicant(s)

TAXC No. 133 of 2023

M/s. Ultratech Cement Ltd., (Unit Baikunth Cement Works) (Formerly Known As Century Cement) (Prop Century Textiles And Industries Ltd.,) Baikunth, Tilda, Raipur Chhattisgarh.

... Applicant (s)

versus

Commissioner, Commissioner, Commercial Taxes, Chhattisgarh Dy.
Commissioner (Appeals), Raipur

--- Non-applicant(s)

TAXC No. 134 of 2023

M/s Ultratech Cement Ltd. (Unit- Baikunth Cement Works), (Formerly Known As Century Cement) (Prop -Century Textiles And Industries Limited.,) Baikunth, Tilda, Raipur, Chhattisgarh.

... Applicant (s)

versus

Commissioner Commercial Taxes Chhattisgarh Dy. Commissioner (Appeals), Raipur,

... Non-applicant(s)

TAXC No. 135 of 2023

M/s. Ultratech Cement Ltd. (Unit- Baikunth Cement Works), (Formerly Known As Century Cement) (Prop -Century Textiles And Industries Limited.,) Baikunth, Tilda, Raipur, Chhattisgarh.

... Applicant (s)

versus

Commissioner Commercial Taxes Chhattisgarh Chhattisgarh Dy. Commissioner (Appeals), Raipur,

... Non-applicant(s)

TAXC No. 136 of 2023

M/s. Ultratech Cement Ltd. (Unit- Baikunth Cement Works), (Formerly Known As Century Cement) (Prop -Century Textiles And Industries Limited.,) Baikunth, Tilda, Raipur, Chhattisgarh.

... Applicant (s)

versus

Commissioner Commercial Taxes C.G Chhattisgarh Dy. Commissioner (Appeals), Raipur,

... Non-applicant(s)

TAXC No. 137 of 2023

M/s. Ultratech Cement Ltd. (Unit- Baikunth Cement Works), (Formerly Known As Century Cement) (Prop - Century Textiles And Industries Limited.,) Baikunth, Tilda, Raipur, Chhattisgarh.

... Applicant (s)

versus

Commissioner Commercial Taxes, Chhattisgarh Dy. Commissioner (Appeals), Raipur

... Non-applicant(s)

For Applicants	: Mr. Ashish Shrivastava, Senior Advocate with Mr. Rahul Ambast and Ms. Ananya Pandey, Advocates
For State	: Mr. Atanu Ghosh, Dy. Govt. Advocate

**D.B. : Hon'ble Shri Justice Parth Prateem Sahu &
Hon'ble Shri Justice Sachin Singh Rajput**

Order on Board**19/08/2026****Per Parth Prateem Sahu, J.**

1. All these six Tax Cases arise out of references made by the Chhattisgarh Commercial Tax Tribunal, Raipur, on the same date i.e. 25.07.2023, in Case Nos. Ref./58/147/2022/VAT for the assessment year 2002-03; Ref./ 59/145/2022/VAT for the assessment year 2006-07; Ref./ 60/05/2022/ VAT for the assessment year 2009-10; Ref./61/120/2022/VAT for the assessment year 2010-11; Ref./62/122/2022/VAT for the assessment year 2011-12; and Ref./63/17/2022/VAT for the assessment year 2012-13. In the aforesaid References, the following four questions of law have been referred to this Court for consideration:

“1. Whether the Ld. Tribunal erred in concluding that the judgment of Hon'ble Supreme Court in the case of 20th Century Finance Corporation 119 STC, page 182 do not apply to the facts of the appellant case whereas the agreement under right to use between the appellant and the railways has been entered into in light of the scheme of the Central Govt. as "own your wagon scheme". This scheme has been referred in agreement between appellant and the Railways.

2. Whether the Ld. Tribunal erred in concluding that, the transfer of wagons to railways is in the State of CG after issuance of C form the applicant whereas it is on the record that, wagons have be delivered in Rajasthan and West Bengal.

3. Whether the Ld. Tribunal erred in not following the judgment dated 05.05.2011 and that of 21.10.2009 passed by the Hon'ble High Court of CG in the case of Raymond Ltd. Vs. Addl. Commissioner under the similar facts.

4. Whether the finding of the Ld. Tribunal is perverse as it failed to consider the relevant decisions relied upon by the applicant/assessee which dealt with identical issue and deliberated and interpreted the provisions of section-79 of the CG CT Act/38 of the CG VAT Act in regard to no power of the State to tax the transaction which is an interstate sales or a transaction in other state. The judgment of Orissa High Court in Telecommunication consultant India (2010) 29 VST, page 265 not appreciated.”

3. Since the present six References involve common questions of law arising out identical facts and circumstances, they are being heard together and are disposed of by this common order.

4. Facts necessary for adjudication of the present References are that the applicant-Company M/s Ultratech Cement Ltd., is engaged in the business of manufacture and sale of cement clinker. The applicant entered into an agreement with the Railways in the year 1996, which was executed at Kolkata, under the Central Government's "Own Your Wagon Scheme". Under the terms of the agreement, the wagons were to be manufactured by manufacturers approved by the Ministry of Railways, namely, M/s Texmaco Ltd., Kolkata (West Bengal) and M/s CIMMCO Birla Ltd., Bharatpur (Rajasthan). The wagons manufactured for and on behalf of the applicant-Company were directly handed over to the Railway Authorities at the respective places of manufacture. Insofar as the wagons manufactured by M/s CIMMCO Birla Ltd. are concerned, the same were handed over to the Station Superintendent, Bharatpur Railway Station, Western Railway, Rajasthan. Likewise, the wagons manufactured by M/s Texmaco Ltd. were handed over to the Station Master, Belgharia Railway Station, West Bengal, under the then South Eastern Railway. The assessments made by the Assessing Authority, whereby the lease rent received by the applicant-Company from the Railways was subjected to tax, were affirmed by the First Appellate Authority as well as by the Chhattisgarh Commercial Tax Tribunal. Aggrieved by the orders passed by the Tribunal, the applicant-Company filed application seeking references on the aforesaid questions of law, which have been referred to this Court for decision by Chhattisgarh Commercial Tax Tribunal, Raipur, vide separate orders dated 25.07.2023 passed in the respective Reference Applications.

5. Learned senior counsel appearing for the applicants-Company submits that the questions of law referred in the present References have already been considered and answered by a coordinate Bench of this Court in Tax Case No.44 of 2023 and other connected matters, decided on 23.04.2025. It is submitted that the controversy in the said matters arose out of substantially identical facts and involved the same question regarding the liability of tax on the lease rent received from the Railways in respect of wagons provided under the "Own Your Wagon Scheme". Learned senior counsel further submits that in the aforesaid judgment dated 23.04.2025, this Court, after considering the relevant statutory provisions and the judgments of the Hon'ble Supreme Court, including ***20th Century Finance Corpn. Ltd. & Anr. v. State of Maharashtra*** (2000) 6 SCC 12, ***Great Eastern Shipping Company Ltd. v. State of Karnataka & Ors.***, (2020) 3 SCC 354, and ***K.P. Mozika v. Oil and Natural Gas Corporation Ltd. & Ors.*** 2024 SCC OnLine SC 28 , has held that the lease rent paid by the Railways to the applicant -Company could not be subjected to tax under Section 2(s)(vi) read with Section 22 of the Chhattisgarh Value Added Tax Act, 2005. He, therefore, prays that the present References may also be answered in terms of the judgment dated 23.04.2025 passed in Tax Case No.44 of 2023 and other connected matters.
6. Learned counsel appearing for the non-applicant/State does not dispute the submission that the questions of law involved in the present References stand covered by the judgment dated 23.04.2025 passed by the coordinate Bench in Tax Case No.44 of 2023 and other connected matters.

7. We have heard learned counsel for the parties and have perused the records of the Tribunal as well as the questions of law referred for consideration.

8. The principal issue arising for consideration in the present References is whether the lease rent received by the applicant-Company from the Railways in respect of the wagons is taxable under the provisions of the Chhattisgarh Value Added Tax Act, 2005, treating the transaction as a deemed sale involving transfer of the right to use the goods.

9. In similar facts and circumstances of the case, earlier also, References were made by Chhattisgarh Commercial Tax Tribunal, Raipur for determination of following substantial question of law :

"(1) Whether the Ld. Tribunal erred in concluding that the judgment of Hon'ble Supreme Court in the case of 20th Century Finance Corporation 119 STC page-182 do not apply to the facts of the appellant case. Whereas the agreement under right to use between the appellant and the Railways has been entered into in the light of the scheme of the Central Govt. 'own your wagon scheme'. This scheme has been referred in agreement between appellant and the Railways.

(2) Whether the Ld. Tribunal erred in concluding that the judgment in Goa Carbon (Supra) (2008) 13 VST page-456 applies to the facts of the appellant case.

(3) Whether the Ld. Tribunal erred in not following the judgment dated 05.05.2011 and that of 21.10.2009 passed by the Hon'ble High Court of CG in the case of Raymond Ltd. Vs. Addl. Commissioner under the similar facts.

(4) whether the finding of the Ld. Tribunal is perverse as it failed to consider the relevant decisions relied upon by the applicant/assessee which dealt with identical issue and deliberated and interpreted the provisions of section-79 of CG CT act-38 of the CG vat act in regard to no power of the state to tax the transaction which is an interstate sales or a transaction in other state. The judgment of Orissa High Court in Telecommunication Consultant India Ltd. (2010) 29 VST page-265 not appreciated.

(5) Whether the Ld. Tribunal has erred in concluding that, since form-C has been used by the appellant from CG, it means that the lease agreement for the state of CG liable to tax in CG. Here the Ld. Tribunal failed to appreciate the proviso to the para in Form-C added from 01.02.1997. Its provides that Form-C can be issued for purchase of goods to be delivered in a state where the purchases is not registered."

10. Coordinate Bench of this Court, while considering the aforementioned questions of law under Reference, considered the provisions of the Chhattisgarh Value Added Tax Act, 2005, as well as the law laid down by the Hon'ble Supreme Court in **20th Century Finance Corpn. Ltd.** (supra), **Great Eastern Shipping Company Ltd.** (supra), and **K.P. Mozika** (supra) and, upon consideration of the same, held as under: :

"11. In view of the aforesaid settled legal position, we are of the opinion that the principle of law laid down by the Supreme Court in the matter of **20th Century Finance Corpn. Ltd** (Supra) squarely applies in the present case. We accordingly hold that the lease rent paid by the Railways to the petitioner/company cannot be accepted to be taxable income and the provisions contained under

Section 2(s)(vi) read with Section 22 of the Act, 2005 will not be attracted.

12. The questions of law referred to this Court are answered accordingly.

13. With the aforesaid observations, the References are disposed of.”

11. From perusal of the questions of law referred in the present case, we find that the very same issue, arising on substantially identical facts, was considered by this Court in Tax Case No.44 of 2023 and other connected matters, decided on 23.04.2025. In the said case also, references had been made by the Chhattisgarh Commercial Tax Tribunal concerning the taxability of lease rent received by the applicant from the Railways in respect of wagons provided under the “Own Your Wagon Scheme”.

12. On a careful consideration of the questions referred in the present References and the questions which were considered by the coordinate Bench in Tax Case No.44 of 2023 and other connected matters, we find that the controversy involved herein is squarely covered by the aforesaid decision.

13. The facts of the present cases also do not disclose any distinguishing feature which would warrant taking a different view. In particular, the fact that the wagons were manufactured and handed over to the Railway Authorities at Bharatpur in Rajasthan and Belgharia in West Bengal does not take the present cases outside the ratio of the judgment dated 23.04.2025.

14. Since the questions of law referred in the present References have already been answered by a coordinate Bench of this Court on the basis of the same statutory provisions and substantially identical facts, judicial discipline requires that the said decision be followed. There is also no submission on behalf of the Revenue that the aforesaid judgment has been set aside, stayed, or otherwise rendered inapplicable.

15. Accordingly, following the judgment dated 23.04.2025 passed by the coordinate Bench of this Court in Tax Case No.44 of 2023 and other connected matters, we hold that the lease rent paid by the Railways to the applicant-Company in respect of the wagons in question is not taxable under Section 2(s)(vi) read with Section 22 of the Chhattisgarh Value Added Tax Act, 2005.

16. Consequently, the questions of law referred by the Chhattisgarh Commercial Tax Tribunal, Raipur, are answered in terms of the judgment dated 23.04.2025 passed in Tax Case No.44 of 2023 and other connected matters.

17. All these six References are accordingly answered and disposed of.

Sd/-
(Parth Prateem Sahu)
Judge

Sd/-
(Sachin Singh Rajput)
Judge