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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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\+ **<u>W.P.(C) 7545/2018 & CM APPL. 28850/2018</u>**

GIRIRAJ TIMBER PVT. LTD. ..... Petitioner

versus

COMMISSIONER, VALUE ADDED TAX ..... Respondent

54

<u>W.P.(C) 7549/2018 & CM APPL. 28865/2018</u>

GIRIRAJ TIMBER PVT. LTD. ..... Petitioner

versus

COMMISSIONER, VALUE ADDED TAX ..... Respondent

55

<u>W.P.(C) 7550/2018 & CM APPL. 28866/2018</u>

AZAD IMPEX PVT. LTD. ..... Petitioner

versus

COMMISSIONER, VALUE ADDED TAX ..... Respondent

56

<u>W.P.(C) 7551/2018 & CM APPL. 28867/2018</u>

AZAD IMPEX PVT. LTD. ..... Petitioner

versus

COMMISSIONER, VALUE ADDED TAX ..... Respondent

<u>Present</u>: Mr. Ruchir Bhatia, Advocate for petitioners in Item No.53 to 56.
Mr. Satyakam, Addl. Standing Counsel, GNCTD with Ms. Trisha, L.A., Ms. Sakshi, L.A. and Mr. Rakesh, VATO in Item No.53 to 56.
Mr. Ramesh Singh and Mr. Charayu Jain, Standing Counsel, GNCTD in Item No.53 & 54.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

O R D E R

% **23.07.2018**

Issue notice.

Mr. Satyakam, Addl. Standing Counsel, GNCTD accepts notice on behalf of the respondent.

The writ petitioners seek direction to the respondent to give effect to the C-Forms which had been used by them. The challenge in these proceedings is that either under the Central Sales Tax (Registration & Turnover) Rules, 1957 or under the Central Sales Tax Act, 1956 no Authority is vested with the power to cancel registration of C-forms retrospectively.

Learned counsel for the petitioners relies upon a previous Division Bench judgment of this Court in *'Jain Manufacturing (India) Pvt. Ltd. vs. Commissioner of Value Added Tax and Another'*, (2016) 93 VST 326 (Del) in which the Court held that:-

> *"25. In the present case with their being a valid registration of the purchasing dealer on the date of the transaction and the C-Form having been validly issued on the date it was so issued, there could not have been a retrospective cancellation of the C-Form. At the risk of repetition, it must be observed that there is no statutory power that permits cancellation of a C-Form that has been validly issued, much less retrospectively. The only circumstance perhaps that could lead to the cancellation of a C Form is the failure by the issuing authority to notice the cancellation of the purchasing dealer's CST registration previous to the date of the sale. That would be a case of a purchasing dealer obtaining a C Form by*

fraudulent means concealing the fact of cancellation of his CST registration. The issuance of a C Form in such instance would be void ab initio since it would not satisfy the requirement of Section 8 (1) of the CST Act read with Section 7 (4) thereof.

The practical effect of cancellation of C Forms

26. It was submitted by Mr. Narayan that there would be a practical difficulty in the DT&T seeking to inform every selling dealer in the country of the cancellation of registration of a purchasing dealer registered under the CST Act in Delhi and that the remedy of the selling dealers in such instance would be to proceed against the purchasing dealers. In the considered view of the Court, if the selling dealer has after making a diligent enquiry confirmed that on the date of the sale the purchasing dealer held a valid CST registration, and is also issued a valid C Form then such selling dealer cannot later be told that the C Form is invalid since the CST registration of the purchasing dealer has been retrospectively cancelled. Where, a selling dealer fails to make diligent enquiries and proceeds to sell goods to a purchasing dealer who does not, on the date of such sale, hold a valid CST registration then such selling dealer cannot later be seen to protest against the cancellation of the C-Form. As observed by the Supreme Court in Commissioner of Sales Tax, Delhi v. Shri. Krishna Engg. (supra) the selling dealer in such instance will have to pay for his "recklessness".

27. To answer the problem highlighted by Mr. Narayan, the best course of action would be for an authority to cancel the CST registration prospectively and immediately place that information on its website. In such event, there would be no difficulty in the selling dealer being able to verify the validity of the CST registration of the purchasing dealer. However, where the cancellation of the registration and, consequently of the C-Form is sought to be done retrospectively, it would *adversely affect the rights of bonafide sellers in other states who proceeded on the basis of the existence of valid CST registration of the purchasing dealer on the date of the inter-se sale. That outcome is not contemplated by the CST Act and the Rules thereunder.*

Conclusion:

28. For the above reasons, the order passed by the DT & T cancelling the Cform issued to the petitioner in the present case with effect from November 27, 2015 is hereby set aside. The petitioner will continue to treat the said C form issued to it as having been validly issued."

It is not disputed by the learned counsel for the respondent/ VAT Department that the claim in these petitions is covered by the judgment in *Jain Manufacturing (India) Pvt. Ltd.* (supra).

Consequently, the writ petitions are allowed in the above terms and the orders cancelling C-forms retrospectively are hereby quashed and set aside. Consequential action in terms of *Jain Manufacturing (India) Pvt. Ltd.* (supra) towards validation of said C-forms in the website of the respondents shall be taken within four weeks. Pending application stands disposed of accordingly.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

JULY 23, 2018
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