IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2019

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.3710 of 2019
and
WMP.No.4095 of 2019

M/s. Sri Ganeshmurugan Blue Metals,
Represented by its Managing Partner,
Mr. M. Ekambaram,
SF. No. 268, Pudukanalli,
Aravakuruchi,
Karur-639 002.

...Petitioner

Vs

1. The State of Tamil Nadu,
Represented by the Secretary to Government
Commercial Taxes Department,
Fort St. George,
Chennai- 600 009.

2. The Principal Commissioner & Commissioner of
Commercial Taxes,
Ezhilagam, Chepauk,
Chennai -600 005.

3. The Assistant Commissioner(ST),
Karur (West) Assessment Circle,
Karur.

4. The Joint Commissioner (ST)
Territorial,
Commercial Taxes Building,
Trichy.

5. The Deputy Commissioner (ST)
Territorial, Commercial Taxes Building,
Trichy.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue an order, direction or writ more so in the nature of Writ of Mandamus to direct the respondents to issue "C" forms under the Central Sales Tax Act, 1956 read with the Central Sales Tax (Registration and Turnover) Rules, 1957 to the petitioner for the purchases of High Speed Diesel from the suppliers in other States in view of the recent Judgment dated 26.10.2018 passed by the Hon'ble Madras High Court in the case of M/s. Ramco Cements Ltd & others in W.P.Nos.19458/2018 to 19460 of 2018 and the batch cases.

For Petitioner : Mr. P. Rajkumar
For Respondents : Mr. M. Hariharan,
Additional Governemnt Pleader

ORDER

This Writ Petition is filed seeking a direction to the respondents to issue "C" forms under the Central Sales Tax Act, 1956 read with the Central Sales Tax (Registration and Turnover) Rules, 1957 to the petitioner for the purchases of High Speed Diesel from the suppliers in other States.

2. An Identical issue has been considered by this Court in the case of M/s.Dhandapani Cement Private Limited V. State of Tamil Nadu (W.P.Nos.4173 and 4176 of 2019 dated 13.02.2019).

3. Mr.M.Hariharan, learned Additional Government Pleader for the revenue confirms with the position that the rationale of the aforesaid order may be applied in the present case as well, as the issue is one and same, being entitlement of 'C' form for purchase of High Speed Diesel from dealers of neighbouring States.

4. The order in W.P.No.4173 of 2019 is extracted below for ready reference.

> "2. The petitioners in the Writ Petitions have expressed their difficulty in obtaining 'C' forms under the provisions of the Central Sales Tax Act, 1956 in order to avail concessional benefit of tax for purchases of High Speed Diesel from suppliers in other States.
>
> 3. At the outset, Mr. P.Rajkumar, learned counsel for the petitioner and Mr. V.Haribabu, learned Additional Government Pleader for the revenue agree that the issue in regard to entitlement to 'C' Forms

for purchase of High Speed Diesel from supplies outside Tamil Nadu, to enable the dealers to seek a concessional rate of tax, is covered in favour of the assessee by a decision of this Court in M/S Ramco Cements Ltd. V. The Commissioner of Commercial Taxes (W.P.Nos.19460 of 2018) dated 26.10.2018 in a batch of over fifty (50) Writ Petitions.

4. A learned Single Judge of this Court in considering the issue held categorically that the benefit of the concessional rate is available to dealers who purchase High Speed Diesel from neighbouring States by way of inter-state sales. Reference is made to the decisions of other Courts that have considered an identical issue, holding the same in favour of the assessee. In fact, the decisions of the Punjab and Haryana High Court has been carried to the Supreme Court in special leave and has been confirmed in State of Haryana & Others Vs. Caparo Power Ltd. & Others in Special leave Petition (Civil No.20572 of 2018). The issue has also been considered in Hindustan Zinc Limited & Several Others Vs. The State of Rajasthan & Others (S.B.Civil Writ Petition No.5506/2018 dated 18.05.2018) and Shree Raipur Cement Plant (A unit of Shree Cement Limited) Vs. State of Chattisgarh, Finance department (Tax Division) (W.P. (T) No.83 of 2018 dated 18.05.2018) and held in favour of the assessee.

6. Mr. Haribabu does not dispute the above position. However, he maintains that the state proposes to challenge the order of the learned Single Judge in the case of M/s. Ramco Cements Ltd (supra) though no such appeal has been filed thus far.

7. In such circumstances, till such time the order of this Court in the case of M/s Ramco Cements Ltd (supra) is either stayed or reversed it is incumbent upon all Assessing Authorities within the State of Tamil Nadu to apply the rationale of the decision to all pending assesments. The petitioner in these Writ Petitions has stated on affidavit that it is unable to download use. Upon enquity with the Assessing Authorities, they have been

informed that the benefit of the decision in M/s Ramco Cements Ltd can be extended only to those dealers that are party to the decision. This stand is unacceptable in so far as the decision of this Court as well as other High Courts, one of which has been confirmed by the Supreme Court, are decisions in rem, applicable to all dealers that seek benefit thereunder, of course, in accordance with law.

10. For the above reasons, these Writ Petitions are allowed Consequently, necessary action to be taken by the department, forthwith. No costs. Connected Miscellaneous Petitions are closed."

5. In the light of the above, this Writ Petition is also allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government
Commercial Taxes Department,
Fort St. George,
Chennai- 600 009.

2. The Principal Commissioner & Commissioner of
Commercial Taxes,
Ezhilagam, Chepauk,
Chennai -600 005.

3. The Assistant Commissioner(ST),
Karur (West) Assessment Circle,
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4. The Joint Commissioner (ST)
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Commercial Taxes Building,
Trichy.

5. The Deputy Commissioner (ST)
Territorial, Commercial Taxes Building,
Trichy.

+1cc to Mr.P.Rajkumar, Advocate, S.R.No.15793

+1cc to the Spl Government Pleader, S.R.No.16408

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and
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GSP(28/02/2019)