IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 13.02.2019

CORAM
THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.Nos.4173 and 4176 of 2019
and
WMP.Nos. 4681 and 4684 of 2019

M/s. Dhandapani Cement Private Ltd.,
Represented by its Managing Director,
Mr.S. Subramanian,
No.503/3, NA, Kariamanickam Road,
Mannachanallur Taluk, Lalgudi Taluk,
Trichy-621 601.
..Petitioner in W.P.No.4173 of 2019

M/s. Teru Murugan Blue Metal.,
Represented by its Managing Partner,
Mr. P. Subramani,
S.F. No:506, Kattumunur,
Kattumunur (P.O.), Aravakurichi (T.K)
Karur-639 111.
..Petitioner in W.P.No.4176 of 2019

vs

1. The State of Tamil Nadu,
Represented by the Secretary to Government
Commercial Taxes Department,
Fort St.George, Chennai-600 001. ....R1 in both W.Ps.

2. The Principal Commissioner & Commissioner of
Commercial Taxes,
Ezhilagam, Chepauk,
Chennai-600 005. ....R2 in both W.Ps.

3. The Assistant Commissioner (ST),
Lalgudi Assessment Circle,
96/41, Bharathi Nagar, Poovalur Road,
Lalgudi-621 601, Trichy District. ...R3 in W.P.No.4173 of 2019

4. The Assistant Commissioner (ST)
Karur (West) © Assessment Circle ...R3 in W.P.No.4176 of 2019

5. The Joint Commissioner (ST) Territorial,
Commercial Taxes Building,
Trichy. ....R4 in both W.Ps.

6. The Deputy Commissioner (ST)
Territorial,
Commercial Taxes Building,
Trichy. ...R5 in both W.Ps.

Prayer in both W.Ps.: 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 19460/2018.

For Petitioner : Mr. P.Rajkumar

For Respondents : Mr. V. Haribabu, Additional Government Pleader (Taxes), Tamil Nadu.

COMMON ORDER

Mr.V.Haribabu, learned Additional Government Pleader (Taxes) takes notice for the respondents. By consent of both sides, final orders are passed in these Writ Petitions even at the stage of admission.

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 purchase 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 decision 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 Chhattisgarh, 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 assessments. The Petitioner in these Writ Petitions has stated on affidavit that it is unable to download the 'C' forms from the websites as the same stand blocked from use. Upon enquiry 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.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mrn/sl

To

1.The Secretary to Government,
The State of Tamil Nadu,
Commercial Taxes Department,
Fort St.George, Chennai-600 001.

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

3.The Assistant Commissioner (ST),
Lalgudi Assessment Circle,
96/41, Bharathi Nagar, Poovalur Road,
Lalgudi-621 601, Trichy District.

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Commercial Taxes Building,
Trichy.

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

+2ccs to Mr.P.Rajkumar, Advocate, S.R.No.12555
+1cc to the Special Government Pleader(Taxes), S.R.No.13686

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and
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SS(CO)

rrs 18/02/2019