IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 07.03.2019
CORAM:
THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition No.6567 of 2019
and WMP.No.7395 of 2019

M/s. Tea Estates India Limited,
Represented by its General Manager - Tax & Company Affairs,
Mr. G.Murali,
No.10 Damu Nagar, Puliakulam, Ramanathapuram,
Coimbatore 641 045 ..Petitioner

vs

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

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

3. The State Tax Officer, Trichy Road Assessment Circle,
 Coimbatore 641 018

4. The Joint Commissioner (ST) Territorial,
 Coimbatore

5. The Joint Commissioner (ST) Computer Cell,
 PAPJM Building, Greams Road,
 Chennai 600 006 ...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 19460/2018 and the batch of cases.

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

O R D E R

Mr.V.Haribabu, learned Additional Government Pleader (Taxes) takes notice for the respondents.

2. The issue in the matter relates to the eligibility to Form "C" of purchase of high-speed diesel oil from dealers in neighbouring States. Mr.V.Haribabu, learned Additional Government Pleader, who took notice for the respondents does not wish to file a counter and fairly states that the issue involved in this writ petition is covered by a decision of this Court, in the case of 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.

3. I thus propose to dispose of this writ petition, by express consent of both the learned counsel, at the admission stage itself.

4. My attention is also drawn to an earlier order passed by me, in identical circumstances, in Writ Petition Nos.4173 and 4176 of 2019, in the case of M/s. Dhandapani Cement Private Limited v. The State of Tamil Nadu and four others, dated 13.02.2019, wherein I have held as follows:-

> "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.

5. 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.

6. 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.

7. 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. Reiterating the view taken by me in the above matter, this writ petition is also allowed, in terms of the aforesaid order. Consequently, necessary action to be taken by the

Department, forthwith. There shall be no order as to costs. Consequently, connected WMP is closed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

srk

To

1. The Secretary to Government, 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 State Tax Officer, Trichy Road Assessment Circle,
   Coimbatore 641 018

4. The Joint Commissioner (ST) Territorial,
   Coimbatore

5. The Joint Commissioner (ST) Computer Cell,
   PAPJM Building, Greams Road, Chennai 600 006

+1cc to Mr. P.Rajkumar, Advocate, S.R.No.21187
+1cc to the Government Pleader, S.R.No. 22475

Writ Petition No.6567 of 2019
and WMP.No.7395 of 2019

RV(CO)
GN(11/03/2019)