IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2019

CORAM

THE HONOURABLE Dr.JUSTICE ANITA SUMANTH

Writ Petition No.6968 of 2019

Lakshmi Machine Works Limited,
Represented by its Chief Financial Officer,
Mr. C.B.Chandrashekar,
SRKV Post, Perianaickenpalayam,
Coimbatore 641 020 .. Petitioner

vs.

1. The Deputy Commissioner (ST),
Commercial Taxes Buildings,
1st Floor, Dr. Balasundaram Road,
Coimbatore 641 018

2. The Joint Commissioner (ST),
Commercial Taxes Buildings,
1st Floor, Dr. Balasundaram Road,
Coimbatore 641 018

3. The Additional Chief Secretary /
Commissioner of State Taxes,
Ezhilagam, Chepauk, Chennai 600 005
.. Respondents

Prayer:-

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus Call for the records of the case from the file of the respondents herein, quash the impugned Letter No.Act Cell-IV/1556/2019 dated 25.01.2019 issued by the third respondent denying the petitioner request to access the C Forms online and direct the first respondent to permit the petitioner to download the C Forms online.

For Petitioner : Mr.R.Venkatraman,
Sr. Counsel, for,
M/s.Lakshmi Sriram

For Respondents : Mr.V.Haribabu, AGP (Taxes)

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O R D E R

Mr.V.Haribabu, learned Additional Government Pleader (Taxes) takes notice for the respondents. By consent of both sides, final order is passed in this Writ Petition even at the stage of admission.

2. The petitioner in the Writ Petition has expressed its 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.R.Venkataraman, learned senior counsel for, Mrs.Lakshmi Sriram, 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.V.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 this Writ Petition 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, this Writ Petition is allowed. Consequently, necessary action to be taken by the Department forthwith. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

srk

To

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3. The Additional Chief Secretary /
Commissioner of State Taxes,
Ezhilagam, Chepauk, Chennai 600 005

+1cc to M/s.Lakshmi Sriram, Advocate, S.R.No.22323

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PA(CO)
CS/14/03/2019