IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2019

CORAM :

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.8231 of 2019

Axles India Limited
Represented by its Company Secretary,
T.V.Venkata Subramanyam,
New No.9 & 11,
Old No.48 & 47, 1-B, First Floor,
Sreshta Samasta Apartments,
Canal Road,
Thiruvanmiyur,
Chennai - 600 041. ... Petitioner

Vs.

The Asst. Commissioner (State Tax)
Anna Salai Assessment Circle,
Greams Road, Anna Salai,
Chennai - 600 006. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondent herein to permit the petitioner to download "C"declaration forms for inter-state purchase of high speed diesel oil as prayed for by the petitioner in their application dated 19.02.2019 as reiterated on 28.02.2019 and in line with the orders and directions of the Hon'ble Court in W.P.No.19458 of 2018 dated 26.10.2018.

For Petitioner : Mr.K.A.Parthasarathy
for Mr.N.Inbarajan

For Respondent : Ms.G.Dhanamadhri
Government Advocate (Taxes)

O R D E R

Ms.G.Dhanamadhri, learned Government Advocate (Taxes) takes notice for the respondent. By consent of both sides, final order is passed in this Writ Petition even at the stage of admission.

2.The petitioner in this 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.K.A.Parthasarathy, learned counsel appearing for the petitioner and Ms.G.Dhanamadhri, learned Government Advocate (Taxes) for the respondent agree that the issue in regard to entitlement to 'C' Forms for purchase of High Speed Diesel from suppliers 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.19458 to 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.Ms.G.Dhanamadhri does not dispute the above position. However, she 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, the Writ Petition is allowed. Consequently, necessary action shall be taken by the department, forthwith. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

The Asst. Commissioner (State Tax)
Anna Salai Assessment Circle,
Greams Road, Anna Salai,
Chennai - 600 006.

+1cc to M/s.N.Inbarajan, Advocate SR.No.26197

+1cc to Special Government Pleader SR.No.27115

W.P.No.8231 of 2019

CP(CO)
GMY(26/03/2019)