IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.07.2019

Coram

THE HONOURABLE MR. JUSTICE M.SUNDAR

W.P.No.18909 of 2019
&
W.M.P.No.18265 of 2019

M/s.Sudarsanam Spinning Mills
(A Division of the Ramaraju Surgical Cotton Mills Ltd.,)
represented by its Company Secretary
"Ramaraju Surgical Cotton Mills Premises"
Post Box No.2
119, P.A.C.Ramasamy Raja Salai
Rajapalayam - 626 117
.. 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)-1
Rajapalayam Assessment Circle
Rajapalayam
.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents to issue "C" declaration forms under the Central Sales Tax Act, 1956 read with the Central Sales Tax (Registration and Turnover) Rules, 1957 to the petitioner for the inter-state purchase of High Speed Diesel in the light of the judgment in the case of M/s.Ramco Cements Ltd & Others reported in 64 G STR 374 and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner : Mr.B.Raveendran

For Respondents : Mr.A.N.R.Jayapratap
Junior Standing Counsel

ORDER

Mr.B.Raveendran, learned counsel on record for sole writ petitioner is before this Court and Mr.A.N.R.Jayapratap, learned junior standing counsel accepts notice on behalf of all the three respondents.

2. With the consent of both the learned counsel i.e., counsel for writ petitioner as well as the Revenue counsel, the main writ petition itself is taken up for disposal, though this writ petition is listed before this Court today under the caption 'FOR ADMISSION' in the motion list.

3. Both the learned counsel submitted, without any disputation or disagreement, that the entire matter turns on a very narrow compass and therefore, main writ petition itself can be disposed of.

4. The central theme of this writ petition is purchase of High Speed Diesel Oil for use in generation and distribution of electricity and other forms of power.

5. In this writ petition, the petitioner was making inter-state purchases of High Speed Diesel Oil on concessional rate of tax at 2% by way of 'C' forms. After introduction of 'Goods and Services Tax' ('GST' for brevity), petitioner continued to purchase High Speed Diesel Oil, but, however, they could not download the 'C' forms. When the petitioner enquired with the Revenue Department, the petitioner was informed that after introduction of GST regime on and with effect from 01.07.2017, the petitioner was not entitled to make purchase of High Speed Diesel Oil from other States on concessional rate of tax i.e., at 2% and therefore, the Department's site has been blocked to deny access to the petitioner and other similarly placed persons from downloading 'C' forms. It may not be necessary to advert to those facts any further, as there is virtually no dispute on the factual aspects of the matter as well as the obtaining legal position as of today.

6. The undisputed obtaining legal position as of today is that, the above said issue came up for consideration before another Hon'ble Judge of this Court in a batch of writ petitions i.e., W.P.Nos.19458 to 19460 of 2018 etc., being a batch of 71 writ petitions and a common order came to be passed by a Hon'ble

Single Judge on 26.10.2018. In the batch, the lead matter is 'The Ramco Cements Ltd.,' and therefore, this common order dated 26.10.2018 shall be referred to as 'Ramco Cements matter'.

7. In the Ramco Cements order, this Court allowed the writ petitions filed by the assessees and directed the Revenue to permit the petitioners dealers to download 'C' forms. It is not in dispute (as submitted by the learned counsel for Revenue) that though an intra Court appeal has been preferred against Ramco Cements matter with a delay of three days, the same remains unnumbered as of today. In other words, Ramco Cemets authored by a Hon'ble Judge of this Court is holding the field as of today.

8. Post Ramco Cements matter, a similar situation came up before another Hon'ble Single Judge vide W.P.No.12520 of 2019 and the same came to be disposed of on 26.04.2019. In the said order, learned Single Judge held that till such time the order of Ramco Cements is either stayed or reversed it is incumbent upon all Assessing Authorities within the State of Tamil Nadu to apply the rationale and the principle laid down in Ramco Cements with regard to pending assessments. This position is not disputed.

9. In other words, there is no disputation or disagreement that the instant writ petition falls clearly within the four corners of Ramco Cements order as well as the aforesaid order of another Hon'ble Single Judge made in W.P.No.12520 of 2019 (order dated 26.04.2019) in 'Southern Cotspinners Coimbatore Private Limited'. The most relevant paragraphs are paragraphs 5 and 6 of Southern Cotspinners Coimbatore Private Limited case and the same read as follows:

> '5. 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.

6. In the aforesaid circumstances and in the light of the order passed above, this Writ Petition is allowed. Consequently, necessary action to be taken by the department, forthwith. No costs. Connected Miscellaneous Petition is closed.'

10. In the light of the narrative supra and in the light of the trajectory, which this matter has taken at the admission stage, it follows as a natural sequitur that the instant writ petition stands allowed. Consequently, necessary action has to be taken by the Revenue/Department/Respondents forthwith which in any case shall not be more than 5 working days from the date of receipt of a copy of this order.

11. This writ petition is allowed. No costs. Consequently, connected miscellaneous petitions is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government,
State of Tamil Nadu
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)-1
Rajapalayam Assessment Circle
Rajapalayam.

+1cc to Mr.B.Raveendran, Advocate Sr.55349

W.P.No.18909 of 2019 &
W.M.P.No.18265 of 2019

ssd[co]
srg 06/08/2019