



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2019

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WEB COPY

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P(MD)Nos.20880, 20786, 20787, 20705, 20706, 20454, 20455 of 2018
and

W.M.P.(MD)Nos.18654 to 18656, 18539, 18540, 18541, 18542, 18446 to
18451, 18200, 18201, 18911, 18912, 18914 and 18915 of 2018

- 1.M/s.Aruppukottai shri Ramalinga Spinners Private Ltd.,
Rep. by its Director T.R.Dhinakaran,
No.212 Ramasamy Nagar,
Aruppukottai. ... Petitioner in WP(MD). 20880/ 2018
- 2.M/s.Shri N.P.P.Textiles (P) Ltd.,
Represented by its Director,
Mr. S.A. Dhamu,
S/o.Late S. Ayyalusamy,
No.216, Sankaran Koil Road,
Kantharam Avenue,
Rajapalayam -626 117. ... Petitioner in WP(MD). 20786/ 2018
3. M/s.Shri T.P.Textiles (P)ltd.,
Represented by its Director,
Mr.G.Rakul,
S/o.A.Gopalasamy,
Old.No.37C1, New No.101, T.P.Mills Road,
Rajapalayam-626 117. ... Petitioner in WP(MD). 20787/ 2018
4. Tvl. Tamil Nadu Jaibharath Mills Limited,
Represented by its Director T.R.Dhinakaran,
No.212, Ramasamy Nagar,
Aruppukottai. ... Petitioner in WP(MD). 20705/ 2018
5. M/s.Shri Ramalinga Mills Ltd.,
Represented by its Chairman T.R. Dhinakaran,
No.212, Ramasamy Nagar,
Aruppukottai. ... Petitioner in WP(MD). 20706/ 2018
6. M/s.Aruppukottai Sri Jayavilas Ltd.,
Rep.By its Director,
Mr.T.R.S.Karthikeyan,
S/o.Late. Sri T.R.Subbraj,
No.52, Pillaimar Street,
Aruppukottai-626 101. ... Petitioner in WP(MD). 20454/ 2018



7. M/s.Shri Koppammal Cotton Spinning Mills Pvt. Ltd.,
Represented by its Director,
Mr.T.R.S.Karthikeyan,
S/o.Late. Sri T.R.Subbraj,
No.52, Pillaimar Street,
Aruppukottai-626 101. ... Petitioner in WP(MD). 20455/ 2018

- Vs. -

1. The Assistant Commissioner (ST),
Commercial Taxes Building,
Aruppukottai.

2. The Principal Secretary/
Commissioner of State Taxes,
Chepauk, Chennai.

... Respondents in WP(MD). 20880, 20705 &
20706/ 2018

3. The State of Tamil Nadu,
Rep by its Secretary to Govt.,
Commercial Taxes Department,
Fort St George,
Chennai-600 001.

4. The Principal Commissioner And
Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai-600005.

5. The Joint Commissioner Of Commercial Taxes(CT),
Commercial Taxes Building,
Armed Reserve Line Road,
Palayankottai,
Thirunelveli-627002. ... Respondents 1 to 3 in
WP(MD) Nos.20786, 20787, 20454 & 20455/2018

6.The Assistant. Commissioner,
Commercial Taxes (CT)-II,
141-B, 1st Floor, T.P Mills Road,
Rajapalayam,
Virudhunagar District,
Pin-626 117. ... 4th Respondent in WP(MD) Nos. 20786 &
20787/ 2018

7. The Asst.Commissioner,
Commercial Taxes(ST),
Madurai Road,
Aruppukottai,

<https://hcservices.ecourts.gov.in/hcservices/>
Virudhunagar District -1. ... 4th Respondent in
WP(MD) Nos. 20454 & 20455/2018

Prayer in WP(MD). 20880, 20705 & 20706/2018:

Writ Petitions are filed under Article 226 of the Constitution of India, praying this Court To issue a writ of certiorarified mandamus, to call for the records of the 2nd respondent in Letter No.CC4/678/2012 dated 31.05.2018 and quash the same and further direct the 1st respondent to permit the petitioners to download C form declaration under Central Sales Tax Act, 1956 for their purchase of high speed diesel oil effected from the suppliers in other state for use in the generator for generating electricity for the purpose of manufacturing yarn.

Prayer in WP(MD). 20786, 20787, 20454 & 20455/ 2018 :

Writ Petitions are filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in impugned Letter No.CC4/678/2012 dated 31.05.2018 and quash the same and directing the respondents to permit the petitioner to download the C form for the Inter State purchase of High Speed Diesel made by them.

(Prayer in WP(MD) Nos. 20454 & 20455/2018 amended vide Court Order dt. 09/10/2018 in WMP (MD) No.18910/2018 & 18913/2018 respectively)

Counsel for Petitioner:

- 1) Mr.S.Karunakar (WP(MD) Nos.20880, 20705 & 20706/2018)
- 2) Mr.S.Kadarkarai (WP(MD) Nos. 20786, 20787,20454 & 20455 / 2018)

Counsel for Respondents:

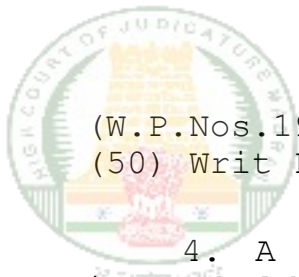
Mr.R.Murugan, Additional Govt. Pleader (in all Writ Petitions)

COMMON ORDER

Mr.R.Murugan, learned Additional Government Pleader 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. Mr.R.Murugan, learned Additional Government Pleader for the revenue fairly agrees that the issue in regard to entitlement to 'C' Forms for purchase of High Speed Diesel from supplies outside Tamil Nadu, is in favour of the assessee. The issue, whether 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.R.Murugan 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.

Sd/-

Assistant Registrar

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To

1. The Assistant Commissioner (ST),
Commercial Taxes Building,
Aruppukottai.

2. The Principal Secretary/Commissioner of State Taxes,
Chepauk, Chennai.

3. The State of Tamil Nadu,
Rep by its Secretary to Govt.,
Commercial Taxes Department,
Fort St George, Chennai-600 001.

4. The Principal Commissioner And
Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
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5. The Joint Commissioner Of Commercial Taxes (CT),
Commercial Taxes Building,
Armed Reserve Line Road,
Palayankottai,
Thirunelveli-627002.

6. The Assistant. Commissioner,
Commercial Taxes (CT)-II,
141-B, 1st Floor, T.P Mills Road,
Rajapalayam,
Virudhunagar District Pin-626 117.

7. The Asst. Commissioner,
Commercial Taxes (ST),
Madurai Road, Aruppukottai,
Virudhunagar District -1.

+ 1 CC to M/s S.Karunakar, Advocate, Sr. No.72629/2019

+ 1 CC to Special Government Pleader Sr. No. 73203/2019

W.P (MD) Nos.20880 of 2018 etc., batch
01.07.2019

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JMN (16.09.2019) 5P : 10C