



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P (MD)No.20116 of 2019

Tvl.TTV Brick Works
rep.by its Partner,
T.Premkumar

... Petitioner

Vs.

1.The Commissioner of Commercial Taxes,
State Tax Department,
Ezhilagam,
Chepauk,
Chennai - 600 005.

2.The Joint Commissioner, (ST),
State Tax Department,
Commercial Taxes Complex,
Reserve Line Road,
Palayamkottai,
Tirunelveli - 627 002.

3.The Deputy Commissioner (ST),
State Tax Department,
458/3, Periyakulam Colony,
Srivilliputhur Road,
Sivakasi - 626 123.

4.The State Tax Officer,
Sankarankoil Assessment Circle,
Commercial Tax Office,
No.129, Rajapalayam Road,
Sankarankovil,
Tirunelveli District - 627 756.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the respondents to immediately issue the Form C declarations to the petitioner for his inter-state purchase of diesel either online or manually by considering the petitioner's representation dt.06/09/019.



For Petitioner : Mr.B.Rooban
For Respondents : Mrs.J.Padmavathy Devi
Special Government Pleader

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ORDER

This writ petition is filed seeking a direction to the respondents to issue Form 'C' declarations to the petitioner for inter-state purchase of diesel either online or manually, by considering the petitioner's representation dated 06.09.2019.

2.By consent of both the parties, the writ petition itself is taken up for final disposal at the stage of admission.

3.The petitioner is running a brick manufacturing unit and he has purchased diesel from Cochin for their manufacturing activity at the reduced rate of tax at 2%. The petitioner ought to have generate online Form 'C' declaration and to submit the same to the other State seller in support of their claim of reduced rate of tax. But, the portal of the respondent department is not allowing to generate Form 'C' declarations, though the petitioner is legally entitled for the same.

4.The petitioner sent mails to the helpdesk of the respondent department portal. They replied that they are allowing generation of Form 'C' declarations only those who have filed writ petitions. The petitioner has also submitted his representation for immediate disbursement of Form 'C' declaration either manually or permit them to generate online Form 'C' declaration. Since no action is forthcoming till date, the petitioner is before this Court.

5.On a perusal of the communication dated 07.09.2019, it is seen that the authority has stated that they are generating 'C' Form only for those who have filed writ petitions and hence, for the petitioner, Form 'C' will not be generated.

6.The learned counsel for the petitioner would contend that in identical issues, this Court has given directions in favour of the assessee and the same is applicable to all. When there is a judgment in rem, the conduct of the respondents that they will restrict to the petitioners who filed writ petitions and they will not comply with the direction for others, is not reasonable, but it is an arbitrary exercise of power.

7.I find some force in the contention of the petitioner. Therefore, a direction is issued to the respondents to issue Form 'C' declaration as it is done in identical cases, within a period of one week from the date of receipt of a copy of this order.



6.The writ petition is disposed of with the above direction.
No costs.

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Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Commissioner of Commercial Taxes,
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Chennai - 600 005.

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+1 CC to M/s.B.ROOBAN, Advocate (SR-87808[F] dated 19/09/2019)

+1 CC to M/s.SPL GP (SR-88357[F] dated 20/09/2019)

W.P. (MD) No.20116 of 2019
19.09.2019

mj

JMN(24.09.2019) 3P : 7C