IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2020

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition No.1552 of 2020
WMP.No.1818 of 2020

Tvl. Armstrong Spinning Mills (P) Ltd.,
Represented by its Managing Director,
E.Palanisamy ...Petitioner

Vs.

The Commercial Tax Officer
Anuparpalayam Assessment Circle,
Tirupur ...Respondent

PRAYER: PETITION filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, directing the respondent herein to issue/download "C" declaration forms under the Central Sales Tax Act, 1956 for the purchases of High Speed Diesel Oil effected from the supplier in other State as requested vide representation dated 12.12.2019.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.M.Hariharan
Additional Government Pleader(T)

O R D E R

Heard Mr.R.Senniappan, leaned counsel for the petitioner and Mr.M. Hariharan, learned Additional Government Pleader for the respondent.

2. Both learned counsel draw my attention to an order passed in W.P.Nos.4173 and 4176 in the case of M/s. Dhandapani Cement Private Limited Vs. The State of Tamil Nadu, wherein the

identical issue as arising before me has been considered and decided by me in the following terms:

> 'Mr.V.Haribabu, learned Additional Government Pleader (Taxes)takes notice for the respondents. By consent of both sides, finalorders are passed in these Writ Petitions even at the stage of admission.
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> 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.
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> 3. At the outset, Mr.P.Rajkumar, learned counsel for thepetitioner 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.
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> 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.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 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.'

3. The State has, after the date of the above order, filed a Writ appeal challenging the decision in the case of Ramco Cements (Supra) that is pending. No stay of the order of the learned single Judge has been obtained. Barring the aforesaid, there is complete identity on facts and in law in the matter before me as well as in the matter considered earlier. I thus reiterate the view taken in the above matter.

4. In the result, this writ petition is allowed. Connected miscellaneous petition is closed. Consequent action be taken by the Department forthwith. No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer
Anuparpalayam Assessment Circle,
Tirupur

+1cc to Mr.R.Senniappan, Advocate sr.6435
+1cc to Special Government Pleader(Taxes) sr.6850

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