IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2020

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition Nos.9077 & 9078 of 2020

Hari Krishna Spinning Mills (Pvt) Ltd.,
No.60, S.F.No.17/2A, Athikattur Anangur Post,
Tiruchengode, Namakkal,
Rep. by its Authorized Signatory
M.Santhoshkumar …Petitioner in WP.9077 of 2020

Sundaram Textile Pvt Ltd.,
No.147 & 148 , Nambi Nager,
Nanguneri,
Tirunelveli District,
represented its Authorized Signatory,
M.Sankarramakrishnan …Petitioner in WP.9078 of 2020

Vs

1.The State of Tamil Nadu
Rep. by the Secretary to Government,
Commercial Taxes Department, Fort St. George,
Chennai 600 001. ...1st Respondent in both Wps.

2.The Principal Commissioner and
Commissioner of Commercial Taxes,
Ezhilagam, Chepauk, Chennai 5. ...2nd Respondent in both WPs.

3.The Assistant Commissioner (CT),
Commercial Taxes, Avinashi. ...3rd Respondents in W.P. No.9077 of 2020

4.The Commercial Tax Officer (ST),
Nanguneri, Tirunelvel District. ...3rd Respondent in W.P. No.9078 of 2020

Common Prayer: PETITIONs filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus directing the respondents to issue C Forms under the Central Sales Tax Act 1956 read with the Central Sales Tax (Registration and Turnover) Rules 1957 to the petitioner for the purchase of High Speed Diesel from the suppliers in other States in view of the recent judgment dated 26.10.2018 passed by this Honourable Court in the case of M/s. Ramco Cements Ltd. and Others in WP No. 19458 of 2018 to 19460 of 2018 and batch cases.

For Petitioner	:	Mr. R.S.Pandiyaraj	in both Wps
For Respondents	:	Mr.ANR.Jayapratap, Government Advocate	in both WPs

C O M M O N O R D E R

Mr.ANR.Jayapratap, learned Government Advocate accepts notice for all three respondents. By consent of, and at request of learned counsel for the petitioner and Mr.ANR.Jayapratap, these Writ Petitions are taken up for final disposal at the stage of admission.

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. 3. At the outset, Mr.P.Rajkumar, learned counsel for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader for the
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> 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.

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 in W.A.No.3403 of 2019 challenging the decision in the case of Ramco Cements (Supra) that has been considered and dismissed by a Division Bench of this Court on 09.03.2020. Mr.ANR.Jayapratap, agrees that 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, both the writ petitions are allowed. Consequently, necessary action be taken by the Department forthwith. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
   Commercial Taxes Department Fort St. George,
   Chennai.

2. The Principal Commissioner and
   Commissioner of Commercial Taxes,
   Ezhilagam, Chepauk, Chennai-5.

3. The Assistant Commissioner (CT),
   Commercial Taxes, Avinashi.

4. The Commercial Tax Officer (ST),
   Nanguneri, Tirunelvel District.

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AD(CO)
KKV/17/08/2020