BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.1081 of 2021

Tvl.Poovaragan Blue Metals,
Represented by its Proprietor,
N.Rajasekaran, aged about 43 years,
S/o.Narayanan,
No.44/1, Samuthrapatti,
Natham,
Dindigul District-624 420. ... 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,
Dr.Thangaraj Salai,
Madurai-625 020.

3.The Assistant Commissioner (ST),
Dindigul Rural Assessment Circle,
Commercial Tax Office,
Sub Collector Office Road,
Dindigul-624 001. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the third respondent to immediately issue him the Form 'C' declarations for his inter-state purchase of diesel either online or manually by considering his representation dated 11.12.2020 within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.R.Veeramanikandan
For Respondents : Mr.S.Dhayalan
Government Advocate.

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2.It is not in dispute that the case on hand is covered by the earlier decisions of this Court. Such a decision namely the order dated 11.03.2019 in W.P.No.6968 of 2019 has been enclosed in the typed set of papers by the petitioner's counsel. The learned Judge, while allowing the writ petition, held as follows:-

> "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 Chhattishgarh, Finance Department (Tax Division) (W.P.(T) No.83 of 2018, dated 18.05.2018) and held in favour of the assessee.
>
> 5.Mr.V.Haribabu does not dispute the above position. However, he maintains that the State propose 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 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 insofar 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."

4.Respectfully following the said decision, the Writ Petition is also allowed. Consequently, necessary action to be taken by the respondent Department forthwith and without any delay. No costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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

2.The Joint Commissioner (ST),
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Dr.Thangaraj Salai,
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3.The Assistant Commissioner (ST),
Dindigul Rural Assessment Circle,
Commercial Tax Office,
Sub Collector Office Road,
Dindigul-624 001.

+1 CC to Mr.B.ROOBAN, Advocate (SR-2107[F] dated 27/01/2021)
+1 CC to SPL GP (SR-2164[F] dated 27/01/2021)

W.P.(MD)No.1081 of 2021
25.01.2021

VB (08.02.2021) 3P 6C