BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.20693 & 20694 of 2017

and

W.M.P.(MD)Nos.16975 to 16978 of 2017

and

W.M.P.(MD)No.5508 of 2018

Tvl.Penta Coal (P) Ltd.,
Represented by its Chief Executive Officer P.Vijayakumar,
5-4-40, Plot No.65,
Kalainagar 3rd Street, Sambandar Alangulam,
Madurai 625 017. ... Petitioner in W.P.(MD)No.20693 of 2017

Tvl.Quantum Coal Energy (P) Ltd.,
Represented by its Chief Executive Officer P.Vijayakumar,
5-4-40, Plot No.65,
Kalainagar 3rd Street, Sambandar Alangulam,
Madurai 625 017. ... Petitioner in W.P.(MD)No.20694 of 2017

-Vs-

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Department of Commercial Taxes,
Fort St.George, Beach Road,
Chennai 600 009.

2.The Commissioner of Commercial Taxes,
2nd Floor, Elilagam, Chepauk,
Chennai-600 005. ...Respondent 1,2 in Both cases

3.Assistant Commissioner (C.T)-III,
C.T.Buildings, Beach Road,
Tuticorin-625 020. ...Respondent 3 in WP(MD)No.20693/17

3.Assistant Commissioner (CT),
Chokkikulam Assessment Circle,
CT Buildings, Dr.Thangaraj Salai,
Madurai 625020. ....Respondent 3 in WP(MD)No.20694/17

4.Tvl.Gimpex Pvt. Ltd.,
Gimpex House No.282, Linghichetty Street, Parrys,
Chennai 600 001.

5.Assistant Commissioner (CT),
Explanade Assessment Circle,
116, AngappanNaicken Street,

Chennai 600 001.

6.The Union of India,
Rep. by its Secretary to Government,
Ministry of Finance,
(Department of Revenue),
Delhi.

7.The Director General of Tax Payer Services,
Central Board of Excise and Customs,
C.R.Buildings, I.P.Estate,
New Delhi. ..Respondents 4 to7 in both W.Ps.

Prayer in W.P.(MD)No.20693 of 2017: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to permit the petitioner to avail the input tax paid ie cessby the fourth respondent on the clean energy cess prior the implementation of GST Act 2017, with effect from 01.07.2017 by applying the order in W.P.(C)No.7459 of 2017, dated 25.08.2017 passed by the High Court of Delhi.
Prayer in W.P.(MD)No.20694 of 2017: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to apply the order in W.P.(C)No.7459 of 2017, dated 25.08.2017 and to permit the dealer to avail the input tax paid ie., cess by the fourth respondent on the Clean Energy cess prior the implementation of GST Act, 2017 with effect from 01.07.2017.

For Petitioner	: Mr.A.Chandra Sekaran
For R1 to R3 & R5	: Mrs.J.Padmavathi Devi Special Government Pleader
For R6 & R7 (in both W.Ps.)	: Mrs.S.Ragaventhre

COMMON ORDER

Heard the learned counsel on either side.

2.The petitioner is dealing in coal. Earlier the Government had been levying what is known as Clear Energy cess on such transaction. However, following the implementation of GST regime, the compensation cess was levied. In this regard, W.P.(C).No.7459 of 2017 was filed before the High Court of Delhi and the Hon'ble Division Bench vide order dated 25.08.2017 granted interim order. The terms of the interim order need not be elaborated now.

3.The fact remains that the present writ petition came to be filed as fallout of the grant of the said interim order granted by the Delhi High Court. During the pendency of the writ petition, the Revenue filed S.L.P.No.25415 of 2017 questioning the interim order. The Supreme Court stayed the interim order granted by the Delhi High

Court. In another case in *Union of India Vs. Mohit Mineral Private Limited*, the Supreme Court had also sustained the constitutional validity of the GST (Compensation to States) Act, 2017.

4.In view of the subsequent legal developments, nothing survives for further adjudication in the present writ petitions. The Writ Petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// 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 Secretary to Government,
State of Tamil Nadu
Department of Commercial Taxes,
Fort St.George, Beach Road,
Chennai 600 009.

2.The Commissioner of Commercial Taxes,
2nd Floor, Elilagam, Chepauk,
Chennai-600 005.

3.Assistant Commissioner (C.T)-III,
C.T.Buildings, Beach Road,
Tuticorin-625 020.

4.Assistant Commissioner (CT),
Explanade Assessment Circle,
116, AngappanNaicken Street,
Chennai 600 001.

5. The Secretary to Government Ministry of Finance
   (Department of Revenue), New Delhi.

6. The Director of General of Tax Payer Service,
   Central Board of Excise and Customs
   C.R Buildings I.P.Estate, New Delhi.

7. The Assistant Commissioner (CT)
   Chokkikulam Assessment Circle,
   CT Buildings, Dr. Thangaraj Salai,
   Madurai-625 020.

+1 CC to M/s.A.CHANDRASEKARAN, Advocate (SR-11387[F] dated 16/03/2021)

+1 CC to M/s.SPL GP (SR-11975[F] dated 17/03/2021)

W.P.(MD)Nos.20693 & 20694 of 2017
and
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