IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-03-2026

CORAM

THE HONOURABLE DR JUSTICE G. JAYACHANDRAN
AND
THE HONOURABLE MR.JUSTICE SHAMIM AHMED

W.A.No.3199 of 2024
&
C.M.P.No.24743 of 2024

1. The Additional Chief Secretary/
Commissioner of Commerical Taxes,
II Floor, Ezhilagam, Chepauk,
Chennai – 600 005.

2. The Assistant Commissioner of Commercial Taxes,
Villupuram-I,
No.27/11, VOC Street,
Villupuram-605 602. … Appellants

vs.

Southern Agrifurane Industries (P) Limited,
Rep. by Vice President (Finance), D.R.Augustine Paulraj,
MGM Centre, No.1, 9th Street,
Dr.Radhakrishnan Salai, Mylapore,
Chennai-600 004. ... Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to allow the Writ Appeal and set aside the impugned order dated 18.10.2023 passed by this Honourable Court in W.P.No.24968 of 2022.

For Appellants: Mr.Haja Nazirudeen,
Additional Advocate General,
Assisted by Mr.C.Harsha Raj,
Special Government Pleader.

For Respondent: Mr. Joseph Prabakar

ORDER

(Order of the Court was made by G.Jayachandran J.)

Intra-Court Appeal is filed by the State, being aggrieved by the order passed by the Learned Single Judge. The Learned Single Judge, on considering the fact that the Extra Neutral Alcohol (ENA), which is a material required for the production of Alcohol for human consumption and also other industrial purposes, could not be brought under the GST regime soon after the Act came into effect on 01.07.2017, in view of the difference of opinion among the Council members. Hence, on various GST General Council meetings, the issue was deferred and status quo was ordered to be maintained. In such circumstances, the respondent, manufacturer of liquor for human consumption had approached the State Government for issuance of C-Form for the purchase of Extra Neutral Alcohol from the manufacturers in other states, that was denied by the State stating the new regime does not enable to issue C-Forms.

2. Being aggrieved, the respondents have approached this Court seeking a writ of mandamus and succeeded. However, the State was not inclined to issue C-Forms to the respondent in respect of Extra Neutral Alcohol (ENA) products from other states.

3. The Learned Single Judge, in the impugned order had discussed the issue at length and having found that the GST Council, in its meetings held on various dates had taken conscious decision to keep the Extra Neutral Alcohol (ENA), used for manufacture of alcoholic liquor for human consumption, outside the purview of GST and appropriate decision to be taken after obtaining opinion from the Attorney General of India.

4. Accordingly, the Learned Single Judge has directed the State to issue C-Forms to the respondent for the purchase made from the other states until the Law Committee issues suitable amendment in law to exclude ENA, for use of manufacture of alcoholic liquors for human consumption, from the ambit of GST.

5. It is brought to the notice of this Court by the Learned Additional Advocate General that the State has brought necessary amendment to the VAT Act by incorporating the provisions under the GST Act by making an amendment to Section 9 of the Charging Section, thereby excluding un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption. This amendment has come into force with effect from 12.11.2024. The submission of the Learned Additional Advocate General is that for the period from 01.07.2017 till 12.11.2024, the respondents are liable to be taxed in terms of GST Act and they are not entitled for any C-Forms. The amendment brought by the State under Section 9 will only have prospective effect.

6. On considering the submission, we find that the GST Council, which is the supreme body to decide about the goods and the rate of tax, was not in a position to take a decision on goods known as ENA and they have consciously decided to maintain status quo, which naturally should be construed as the situation which was prevailing prior to 01.07.2017. Therefore, the manufacturers of Alcoholic liquor for human consumption, who are dependents on supply of ENA from other states for seamless supply has to be provided with C-Forms, if they are entitled. They cannot be denied their right of trade, which is a fundamental right. The indecision of the Council of GST cannot create impediments to the right of trade of the respondent.

7. For the said reasons, the Learned Single Judge has directed the state to issue C-Forms to the respondent till necessary amendment is brought to the statute. We find no error in the order of the Learned Single Judge to interfere.

8. Therefore, Writ Appeal stands dismissed. The State is directed to issue C-Forms to the respondents, if so far not issued, subject to compliance of other statutory requirements. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

(Dr. G.JAYACHANDRAN, J.) & (SHAMIM AHMED, J.)
24-03-2026

Index :Yes/No.
Neutral Citation :Yes/No.

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