

Allowed use of Form-C to purchase Petroleum, Natural Gas and Liquor products post GST

The Hon'ble Supreme Court of India in ***the Commissioner of Commercial Taxes and Anr. etc. v. the Ramco Cements Ltd. etc. [Petition(s) for Special Leave to Appeal (C) No(s) .15785-15788/2020, dated March 24, 2021]*** declined to interfere in Revenue's Special Leave Petitions, for use of 'C' Forms of the Central Sales Tax Act, 1956 ("CST Act") post GST in respect of purchase of six commodities (petroleum crude, diesel, petrol, aviation turbine fuel, natural gas and liquor) for use in the course of inter- state trade or commerce by the Assessee.

Facts:

This petition has been filed by the Revenue Authorities against the decision of the Hon'ble Madras High Court in ***the Commissioner of Commercial Taxes & Anr. v. the Ramco Cements Ltd. and the State Tax Officer & Anr. v. Sundaram Fasteners Limited [W.A.Nos.3403, 3413, 3414 and 2812 of 2019 and C.M.P.Nos.21904, 21951, 21958 and 17970 of 2019, dated March 9, 2020]*** wherein the Court, directed the Revenue Authorities not to restrict the use of 'C' Forms under the CST Act for the inter-state purchases of six commodities by the assesseees and other registered dealers at concessional rate of tax and further directed to permit online downloading of such declaration in 'C' Forms under Section 8(1) read with Section 8(3)(b) of the CST Act to such dealers.

Issue:

Whether Revenue is liable to issue C-Form in respect of petroleum crude, diesel, petrol, aviation turbine fuel, natural gas and liquor purchase intended for use in the course of inter-state trade or commerce post GST?

Held:

The Hon'ble Supreme Court of India in ***Petition(s) for Special Leave to Appeal (C) No(s). 15785-15788/2020, dated March 24, 2021*** held as under:

- Agreed with the view taken by the Punjab and Haryana High Court in ***Carpo Power Limited v. State of Haryana & Ors. [CWP No. 29437 of 2017 dated March 28, 2018]***,

which has already been upheld by the Hon'ble Supreme Court by dismissing **Special Leave Petition (C) No.20572 of 2018** vide order dated August 13, 2018 wherein it was held that the Revenue Authorities are liable to issue 'C' Forms in respect of the natural gas purchased from the Oil Companies in Gujarat and used in the generation or distribution of electricity at power plants in Haryana.

- Noted that nine High Courts have taken the same view. Even the decision of the High Court of Rajasthan has been affirmed by Supreme Court by dismissal of **Special Leave Petition (C) No.27529 of 2019 and connected cases vide order dated February 3, 2020**. Further noted that, after the decision of Punjab and Haryana High Court even the Union of India has chosen to act upon the same by issuing Office Memorandum dated November 1, 2018 and directing all the States/Union Territories to follow the view taken by the Punjab and Haryana High Court.
- Held that, considering the consistent view of nine High Courts, including dismissal of Special Leave Petitions by different Bench of the Supreme Court, and being satisfied about the exposition on the matters in issue by the High Court of Madras vide judgment (Supra) being a possible view, the Court declined to interfere in these Special Leave Petitions, therefore there is no reason to reopen the entire matter. Dismissed the Special Leave Petitions and disposed all pending applications.

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