

M/S Samsung C&T Pvt. Ltd., vs The Commissioner, Trade & Taxes, & Anr on 15 February, 2019

Author: S. Muralidhar

Bench: S.Muralidhar, Sanjeev Narula

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 4092/2017 & CM APPLs. 17963/2017, 17964/2017 &
2283/2019

M/S SAMSUNG C&T PVT. LTD., Petitioner
Through: Mr. Naresh Kaushik and Mr. Umang
Gupta, Advocates.

versus

THE COMMISSIONER, TRADE & TAXES, & ANR. Respondents
Through: Mr. Shadan Farasat, ASC, GNCTD
with Ms. Hafsa Khan, Ms. Jahnavi
Sindhu, Ms. Rudrakshi Deo,
Advocates with Mr. Amit Sharma,
LA DT & T.

CORAM:
HON'BLE DR. JUSTICE S.MURALIDHAR
HON'BLE MR. JUSTICE SANJEEV NARULA
ORDER

% 15.02.2019

1. After some hearing, counsel for the parties states that they would be satisfied if an order in terms of order dated 10th September, 2018 in W.P. (C) No. 9474/2018, Allied Automation Engineering Services Private Limited versus Commissioner of Trade and Taxes is passed in the present case.

2. The order in Allied Automation Engineering Services Private Limited (supra) notices that the decision of this Court in Ingram Micro India Private Limited versus Commissioner Department of Trade and Taxes, (2016) 89 VST 312 (Del) is subject matter of Civil Appeal pending before the Supreme Court, but there is no stay order. However, stay has been granted in appeals preferred by the Revenue in other cases including judgement in W.P.(C) No. 2633/2017 India Oil Corporation Limited Vs. Commissioner, Vat, Delhi & Ors. decided on 11th April, 2017. Recording the said fact, the writ petition preferred by Allied Automation Engineering Services Private Limited (supra) was disposed of on the following terms:-

"Issue notice. Mr. Satyakam, Addl. Standing Counsel for GNCTD accepts notice on behalf of the respondent. The petitioner's grievance in these proceedings is that it

had, for the relevant inter-state purchase of goods in the third and fourth quarters of financial year 2014-15, while transacting with twenty dealers inadvertently reflected an amount of Rs.42,51,522/- incorrectly in the column No.11.1 of the DVAT-16. It is stated that this purchase is against column E-1 and thus the amounts (Rs. 2,49,81,909/-) were to be shown as purchases made against the C-forms and appropriately required to be reflected in column No.11.1 in DVAT-16.

The petitioner relied upon the judgment of this Court in „Indian Oil Corporation vs. Commissioner, VAT' dated 11.04.2017, W.P. (C) 2633/2017 as well as subsequent decisions stating that the relief of a direction to the DVAT Authorities to issue fresh C- forms to enable the dealer to correct the mistake, can be made.

The Revenue, which is represented on advance notice points out that similar cases are pending on the file of the Court and that the decision in Indian Oil Corporation (supra) was stayed upon a Special Leave Petition by the Revenue (SLP No.13928/2017 - Commissioner, VAT Delhi & Ors vs. M/s Indian Oil Corporation Ltd.) by an order dated 01.05.2017.

In the light of the submissions made following the final judgment of this Court of 11.04.2017 in W.P. (C) 2633/2017 (Indian Oil Corporation Ltd. vs. Commissioner, VAT Delhi), the petitioners are entitled to a direction of similar kind. The respondent shall release the C-Forms to enable the appropriate correction to be made for the relevant quarters. However, these directions shall remain suspended till the time SLP (C) 13928/2018 is pending and shall be subject to the final decision of the Supreme Court in that case.

The writ petition is disposed of in the above terms. A copy of the order be given Dasti."

3. In view of the consent given by the counsel for the parties, on instructions, we dispose of the present writ petition directing that the petitioner would be issued segregated and separate C-forms in terms of the prayer Clause-A to the writ petition (subject to verification of entitlement or merits and not on the ground of limitation). However, this direction would remain suspended till Civil Appeals pending in the Supreme Court are decided. Compliance would be made in accordance with the ratio of the said decision.

4. Recording the aforesaid terms, the writ petition is disposed of and the pending applications are also disposed of.

5. Dasti under signature of the Court Master.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

FEBRUARY 15, 2019 nk