

Agarwalla Teak International Pvt. Ltd vs Commissioner Of Trade And Taxes on 18 July, 2022

Author: Rajiv Shakdher

Bench: Rajiv Shakdher

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 5607/2019

AGARWALLA TEAK INTERNATIONAL

PVT. LTD.

.....Petitione

Through: Mr Rajesh Jain with Mr Vikas Tiwa
and Mr Rajeev Aggarwal, Advs.

versus

COMMISSIONER OF TRADE AND TAXES

.....Responde

Through: Mr Satyakam, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

% 18.07.2022 [Physical Hearing/Hybrid Hearing (as per request)]

1. The substantive prayers made in the writ petition read as follows:

"a) that the respondent has no jurisdiction and authority to cancel any declaration form including the 'C' form under the CST Act;

b) that the 'C' forms issued to the petitioner by the dealers mentioned in the table above to be valid against the transactions made to them during 2011-12, 20 12-13, 2014-

15 & 2015-16 when their registration certificates were subsisting and valid for and all intents and purposes;

c) that the respondent has no jurisdiction and authority to retrospectively cancel the registration certificates under the CST Act;"

2. We are informed by the counsel for the parties that the reliefs claimed and the issue arising in the above-captioned petition is covered by the following judgments rendered by Division Benches of this Court.

(i) Jain Manufacturing (India) Pvt. Ltd. Vs. The Commissioner, Value Added Tax and

Another, [2016] 93 VST 326 (Delhi);

(ii) M/s Jai Gopal International Impex Pvt. Ltd. Vs. Commissioner of Delhi Value Added Tax & Anr. dated 23.07.2018 passed in W.P. (C) 7563/2018.

3. We are informed by Mr Satyakam, who appears on behalf of the respondent, that the judgment in Jai Gopal has been taken up in appeal to the Supreme Court, in which notice has been issued and the impugned judgment has been stayed.

3.1. Counsel for the parties inform us that the matter is pending final adjudication in the Supreme Court.

4. To be noted, the judgment in Jai Gopal case, was predicated on the decision rendered in Jain Manufacturing. 4.1. The operative directions in the Jai Gopal case read as follows:

"It is not disputed by the learned counsel for the respondents/VAT Department that the claim in this petition is covered by the judgment in Jain Manufacturing (India) Pvt. Ltd. (supra).

Consequently, the writ petition is partly allowed. The orders cancelling C-forms retrospectively are hereby quashed and set aside.

Consequential action in terms of Jain Manufacturing (India) Pvt. Ltd. (supra) towards validation of said C-forms in the website of the respondents shall be taken within four weeks."

5. Given these circumstances, the writ petition is disposed of in terms of the operative directions issued in the judgement in Jai Gopal, extracted above.

5.1. These directions will apply mutatis mutandis to the petitioner in the above-captioned matter as well.

5.2. However, these directions will remain suspended, till such time a final decision is taken by the Supreme Court in the appeal preferred against the judgement in Jai Gopal case.

6. Needless to add, the parties will act in terms of the final judgment of the Supreme Court in the aforesaid case.

RAJIV SHAKDHER, J TARA VITASTA GANJU, J JULY 18, 2022/pmc Click here to check corrigendum, if any