

TAX INFO

S. No. 038 Dated 10.06.2023

Latest update on GST Law: **Benefit of C-Forms cannot be denied by cancelling them retrospectively** as given in judgement by **Delhi High Court**.

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Name of Petitioner	Zapsell Retail
Name of Respondent	Commissioner, State Goods and Services Tax Delhi
Authority	Delhi High Court
Date of Judgement	03.02.2023
Appeal No.	W.P.(C) 7210/2022

Brief Facts of the Case Law:

The petitioner is engaged in the business of sale and purchase of electronic items and was registered under the provisions of the CST Act, 1956 and Haryana VAT Act, 2003. The petitioner has migrated to the GST regime and is registered under the GST Act, 2017. The petitioner is aggrieved by denial of the concessional rate of duty in respect of certain inter-state sales made to M/s Shree Ram Overseas ('the purchasing dealer'), a dealer registered under the DVAT Act, 2004 against declaration in Form C. The C-forms submitted by the petitioner in respect of the sales made to the purchasing dealer in the 1st and 2nd Quarter of the Financial Year 2016-17, were not verifiable online. However, the Cforms submitted for the 3rd Quarter of the said Financial Year were accepted.

Contention of Department:

The Department contends that on the basis of the information received from the Enforcement Directorate regarding investigation under the Prevention of Money Laundering Act, 2002 against certain firms registered under DVAT Act, a notice under Section 59(2) of the DVAT Act (being Ref no.: 10486004) was issued to the purchasing dealer on 12.04.2018 directing it to produce financial records pertaining to the period on or before 19.04.2018. However, no response was received from the purchasing dealer to the notice dated 12.04.2018. The purchasing dealer did not furnish any document to verify the purchases made by it. Consequently, cancellation proceedings of the C-forms were initiated against the purchasing dealer.

Contention of Petitioner:

There is no provision under the CST Act for cancellation of declaration forms. The decision of this Court in Maa Jagdamba Traders v. Commissioner Value Added Tax (W.P. (C) No. 13365 of 2018 decided on 09.07.2019), makes it clear that once the form that has been issued is utilized, the question of subsequently declaring such used forms as obsolete would not arise. Rule 5(14) makes the requirement of surrender of the unused forms of the series design or colour that have been rendered obsolete clear and provides that only for such unused forms would new forms be issued. It is, therefore, plain that the above rules do not permit the CVAT to declare forms that have already been issued and acted upon as obsolete. The aforementioned view has been followed by this Court in Sheel Chand Agroils P. Ltd. v. Government of NCT of Delhi (W.P. (C) 3245 of 2019 decided on 05.08.2019). In Jain Manufacturing (India) Pvt. Ltd. v. The Commissioner Value Added Tax &Anr. (W.P.(C) 1358 of 2016 decided on 01.06.2016), this Court had held that C-forms cannot be cancelled retrospectively and the Department did not appeal against the decision in Jain Manufacturing (India) Pvt. Ltd v. The Commissioner Value Added Tax &Anr. (supra).

Findings and Decision of the Court:

The decision in the case of Jain Manufacturing (India) Pvt. Ltd. vs. The Commissioner Value Added Tax &Anr. (supra) is binding on this Court and therefore, the benefit of the C-Forms in question cannot be denied to the petitioner, by cancelling the same retrospectively.

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