



NITYA'S INSIGHT

Supreme Court allows issuance of Form-C for procurement of fuel after GST implementation

September 4, 2018

Dear Reader,

This is to update you regarding the decision in **Caparo Power Limited**^[1] wherein the Apex Court has dismissed revenue's SLP against High Court's decision^[2] mandating the State Government to issue Form-C for procurement of fuel eligible to central sales tax ('CST') after the introduction of GST.

In the present case, the dealer was engaged in inter-state purchase of natural gas for generation of electricity. The sales tax department refused to issue Form-C because of migration of registration from the Central Sales Tax Act, 1956 ('CST Act') to GST resulted in automatic cancellation of such registration. The High Court held that migration of a taxpayer to GST, did not automatically lead to cancellation of registration under the CST Act. The Court held that natural gas features amongst the 6 goods still eligible to CST ('specified goods') and the taxpayer was eligible to obtain Form-C for its use in generation of electricity.

In identical matters, the Rajasthan High Court^[3] and Chhattisgarh High Court^[4] had also allowed taxpayers to procure diesel for mining operations at concessional rates against Form-C.

This decision gains importance as taxpayers can now rightfully procure specified goods at concessional rate (instead of full rate of VAT) for specified purposes against Form-C.

NITYA Comments

In the light of the Apex Court's decision, the taxpayers can consider adopting the following course of action:

- *Taxpayers need to have valid CST registration certificate as on date. In case registration has already been cancelled, taxpayers can apply for fresh CST registration.*
- *Taxpayers need to discuss the Apex Court's decision with their vendors supplying specified goods and request them to charge concessional rate of CST on their supplies.*
- *Taxpayers need to file periodic returns under the CST Act and declare procurement of specified goods at concessional rate and apply to the sales tax department for issuance of Form-C.*

We hope that you found the above update useful. Please feel free to contact in case any clarification is required.

Regards,

Team NITYA

[1] *State of Haryana v. Caparo Power Limited, 2018-VIL-24-SC*

[2] *Caparo Power Limited v. State of Haryana, 2018-VIL-154-P&H*

[3] *Hindustan Zinc Limited v. State of Rajasthan, 2018-VIL-233-RAJ*

[4] *Shree Raipur Cement Plant v. State of Chhattisgarh, 2018-VIL-225-CHG*



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