

Deputy Commercial Tax Officer, Lalgudi

v.

Dalmia Cement (Bharat) Limited

(Supreme Court Of India)

HON'BLE JUSTICE G. T. NANAVATI HON'BLE JUSTICE S. C.
AGRAWAL

Civil Appeal No. 13960 of 1996 | 01-11-1996

1. Delay condoned.

2. Special leave granted.

3. The appeal is directed against the judgment dated 3-1-1991 of the High Court of Madras in Writ Appeal No. 1188 of 1990 filed by the appellant against the judgment dated 21-3-1988 passed by the learned Single Judge in Writ Petitions Nos. 5971 to 5973 of 1981. It appears that the writ petition filed by the respondent was allowed by the learned Single Judge relying upon the judgment of the High Court in Ramco Cement Distribution Co. (P) Ltd. v. State of T.N. (1982 (51) STC 171 (Mad)) The Division Bench by the impugned judgment has affirmed the said judgment of the learned Single Judge. Thereafter the judgment of the High Court in Ramco Cement Distribution Co. (1982 (51) STC 171 (Mad)) came up for consideration before this Court and the said judgment has been reversed by this Court by its judgment in Ramco Cement Distribution Co. (P) Ltd. v. State State of T.N. (1993 (1) SCC 192).

4. Shri Ganguly, the learned Senior Counsel appearing for the respondent, states that the decision in Ramco Cement Distribution Co. (1982 (51) STC 171 (Mad)) relates to freight charges and not packing charges and he wants to place reliance on the other decisions of this Court in State of T.N. v. Cement Distributors (P) Ltd. (1973 (3) SCC 342 : 1973 SCC(Tax) 220 : 1973 (2) SCR 1019) and CST v. K. P. Moideenkutty 1993 (S4) SCC 59 : 1993 (90) STC 36) which relate to packing charges. Since those decisions were not considered by the High Court, we consider it appropriate that the matter should be remitted to the High Court for consideration in the light of the said decisions. The appeal is,

therefore, allowed. The impugned judgment of the Division Bench as well as the judgment of the learned Single Judge are set aside and the writ petitions are remitted to the High Court for consideration on merits. No order as to costs.