BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.01.2024**

CORAM:

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**
AND
THE HONOURABLE **MR.JUSTICE C.KUMARAPPAN**

T.C.(MD)No.100 of 2009

Tvl.Mekala M.S.P.Raja,
181-A, Goods Shed Street,
Madurai. ...Petitioner

/Vs./

1.The State of Tamil Nadu,
The Secretary,
Sales Tax Appellate Tribunal (Addl. Bench),
Commercial Taxes Buildings,
Dr.Thangaraj Salai,
Madurai-625 020.

2.The Commercial Tax Officer,
Nethaji Road Circle,
Commercial Taxes Buildings,
Dr.Thangaraj Salai,
Madurai-625 020. ...Respondents

PRAYER:- Revision Petition - filed under Section 38 of the TNGST Act, 1959, to revise the order of the Tamil Nadu Sales Tax Appellate Tribunal (Addl. Bench), Madurai, dated 01.02.2006 passed in Madurai Tribunal Appeal No.277 of 2005.

For Petitioner : Mr.R.D.Ganesan

For Respondents : Mr.D.Sachikumar
Additional Government Pleader

ORDER

DR.G.JAYACHANDRAN, J.
AND
C.KUMARAPPAN, J.

The petitioner herein is a registered dealer in plywood. In the course of inspection by the enforcement wing, suppression of sale was noticed and sales slips other than invoice were acquired during the inspection conducted on 13.11.2002. Based on the inspection report, the assessing officer found that there is a suppression of sale and estimated the suppression is Rs.12,15,686/- and levied penalty of Rs.1,80,43,322/- under Section 12(3)(b) of the Tamil Nadu General Sales Tax Act, 1959 (hereinafter referred to as "Act" for brevity).

2. Being aggrieved by the order passed by the assessing officer, the dealer preferred an appeal before the Assistant Commissioner, who deleted a sum of Rs.4,76,55,100/- as against the estimated suppression of turnover of Rs.7,26,12,088/- and proportionate tax and penalty was levied. Thereby, the assessment made by the Assessing Officer partly modified.

3. The dealer went on appeal before the tribunal. The tribunal, on considering the ground of appeal, the order of the assessing officer, appellate authority and the documents relied split the total turnover of Rs.12,15,686/- as taxable turnover and non taxable turnover and held that the suppressed turnover is only Rs.53,83,027/- and liable to pay tax of Rs.8,56,409/- and surcharge of Rs.28,787/-. Still not satisfied with the order, the assessee / dealer has preferred this tax case (revision).

4. The learned counsel appearing for the petitioner submitted that on the inspection, the team could be able to collect material only to an extent of alleged suppression of sales to the tune of Rs.81,000/-. However, the assessing authority had multiplied the suppression twelve times on presumption and levied tax on the presumptive turnover, which is not supported by any document. Further though it is contended that more than Rs.45,000/- bills were scrutinized fixing the escaped assessment, there is no material placed by the department to substantiate the allegation.

5. The contention of the learned counsel appearing for the petitioner is not sustainable for the reason that these points were agitated before the first appellate authority as well as the tribunal. The facts were considered and the relevancy of materials were duly considered and the tax and surcharge payable has been duly revised and reduced.

6. For easy reference, the abstract of the relief granted by the authorities in the first appeal and second appeal is given below:-

ABSTRACT OF RELIEF GRANTED IN THE APPELLATE FORUM

BEFORE THE AAC(CT), MADURAI (NORTH)

	Turnover	Tax	SC	Penalty
Disputed	Rs.7,38,27,771	1,16,50,585	5,82,530	1,80,43,322
Relief granted	Rs.4,76,55,100	75,40,623	4,15,351	1,37,82,165
Sustained	Rs.2,61,72,671	41,09,962	1,67,179	42,61,157

BEFORE THE STAT (AB), MADURAI

Relief claimed	Rs.2,61,72,671	41,09,962	1,67,179	42,61,157
Relief granted	Rs.2,07,89,644	32,53,553	1,38,392	**
Sustained	Rs.53,83,027	8,56,409	28,787	**

7. This Court finds that the order of the tribunal is based on the facts and requires no interference. Further, no substantial Question of Law arises. Hence, this tax case (revision) is dismissed. No costs.

[G.J.J.,] & [C.K.J.,]
03.01.2024

NCC :Yes/No
Index :Yes/No
Internet :Yes

DR.G.JAYACHANDRAN, J.
AND
C.KUMARAPPAN, J.

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TO:-

1.The Commercial Tax Officer (FAC),
Nethaji Road Circle,
Commercial Taxes Buildings,
Dr.Thangaraj Salai,
Madurai – 625 020.

2.The Commercial Tax Officer (FAC),
Nethaji Road Circle,
Madurai.

Order made in
T.C.(MD)No.100 of 2009

Dated:
03.01.2024