IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 02.04.2025

PRONOUNCED ON : 24.04.2025

CORAM

THE HONOURABLE Dr.JUSTICE **ANITA SUMANTH**
and
THE HONOURABLE Mr.JUSTICE **C.KUMARAPPAN**

WP.Nos.11707 to 11709 of 2008
and
MP.Nos.1, 2 to 2 of 2008 & 3 & 3 of 2008

M/s.Techni Tools,
Represented by Partner Mr.Harbinder Singh,
No.106-A, SIDCO Industrial Estate,
Chennai-96.

... Petition in all WPs.

-Versus-

1. The Sales Tax Appellate Tribunal [A.B]
   2nd Floor City Civil Court Buildings,
   Madras High Court Campus,
   Chennai-104.
2. The Appellate Assistant Commissioner [C.T] VI,
   Kuralagam Annexure Building,
   VI Floor, Chennai.
3. The Deputy Commercial Tax Officer,
   Korattur Assessment Circle,
   18, Railway Station Road,
   Korattur, Chennai-80.

... Respondents in all WPs.

Writ Petitions filed under Article 226 of The Constitution of India, praying to grant stay of all further proceedings in pursuance to the order passed by the 1st respondent in S.T.A.Nos.777, 779 & 782 of 2000 respectively dated 11.03.2008 pending disposal of the above writ petitions.

For Petitioner	: Mr.D.Vijayakumar
For Respondents	: Mr.V.Prashanth Kiran Government Advocate for R2 & R3 R1-Tribunal

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COMMON ORDER

(Judgment of the Court was delivered by ***C.KUMARAPPAN, J****.)*

The instant writ petitions are arising against the order of the Tamil Nadu Sales Tax Appellate Tribunal in STA.Nos.777, 779 & 782 of 2000 dated 11.03.2008.

2. The brief facts which are necessary for disposal of the instant writ petitions are as follows:-

(a). The Assessee M/s.Techni Tools is a manufacturer of M.S.Rounds, M.S.Bars etc. During the material assessment years 1992-93, 1993-94 and 1994-95, they claimed exemption towards inter-State consignment transfers of the above materials under Section 6-A of the Central Sales Tax Act, 1956. However, the Commercial Tax Officer vide Assessment Orders dated 29.11.1996 and 06.05.1996 respectively has disallowed the exemption and also imposed a penalty under Section 12(3)(b)(v) of the Tamil Nadu General Sales Tax Act.

(b). Aggrieved with the said order, the assessee preferred an Appeal before the Appellate Assistant Commissioner under Section 31 of the Tamil Nadu General Sales Tax Act. The Appellate Assistant Commissioner vide order dated 28.09.1999 reversed the assessment order and granted exemption as prayed by the Assessee.

(c). Not satisfied with the above order, the Revenue preferred an appeal under Section 36(1) and (2) of the Tamil Nadu General Sales Tax Act before the Sales Tax Appellate Tribunal. The Sales Tax Appellate Tribunal, after having considered either side submissions, ultimately reversed the order of the Appellate Assistant Commissioner and thereby, restored the order passed by the Commercial Tax Officer. Aggrieved with the said order, the assessee preferred the instant writ petitions.

3. We have heard Mr.D.Vijayakumar, learned counsel for the petitioner and Mr.V.Prashanth Kiran, learned Government Advocate appearing for the respondents 2 and 3.

4. The learned counsel for the petitioner-assessee would vehemently contend that the reason for disallowing exemption is that the agent of the assessee has sold the goods on the same value as received from the assessee, and that the assessee received the cheque on the date of delivery itself, and the delivery was also effected on the same day of the receipt by the same vehicle booked by the assessee. According to the learned counsel, based on the above ground, the authority arrived at a wrong conclusion that the pattern of transaction would reveal a pre-existing contract between the assessee and the buyer. The learned counsel for the assessee would further contend that having the Authority not disputing the existence of the agency and the transfer of consignments to the agents, ought not to have concluded that the pattern of transaction is inter-State sale. The learned counsel would further contend that the receipt of advance payment and the sale of material on the same day of arrival, cannot be a ground to deny the exemption under Section 6A of Central Sales Tax Act. In this connection, the learned counsel relied

upon the following judgments:-

1. ***State of Tamil Nadu Vs. Kumaran Mills Limited and another*** reported in ***[2010] 28 VST 262 (Mad);***
2. ***Commissioner of Trade Tax Vs. Vijendra Engineering*** reported in ***[2009] 25 VST 600 (AII);***
3. ***State of Tamil Nadu Vs. P.M.P.Iron and Steel India Limited and another*** reported in ***[2010] 28 vst 370 (Mad).***

5. Per contra the learned Government Advocate would vehemently contend that the Original Authority as well as the Tribunal has given a factual finding that due to certain pattern of transaction viz., sale of goods on the day of arrival and also receipt of sale price in advance and the bulk sale, has disallowed the exemption, and that those things are all the telltale signs of direct inter-State sale. It is in this background, the learned Government Advocate contended that, the order of the Sales Tax Appellate Tribunal is to be confirmed. In support of his contention, the learned Government Advocate relied upon the following judgments:-

1. ***Govindan Engineering Foundry Trichy Vs. The State of Tamil Nadu*** reported in ***[2002] 128 STC 579 (Mad);***
2. ***State of Tamil Nadu Vs. Andaman Timber Industries Ltd.,*** reported in **1997 SCC OnLine Mad 1380;**

3. ***The State of Tamil Nadu Vs. Sharp Industries and Ors.,*** reported in ***MANU/TN/9579/2022.***

6. We have given our anxious consideration to either side submissions.

7. We are dealing with three writ petitions. For ready reference, the writ petition numbers and it's corresponding Assessment year is put in a tabular column:-

S.No.	***WP.No.***	***Assessment year***
1.	11707/2008	1993-94
2.	11708/2008	1992-93
3.	11709/2008	1994-95

8. Since the fact and law involves in all the above writ petitions are one and the same, we deem it appropriate to dispose of all the writ petitions jointly.

9. Some of the reasons to deny exemption under Section 6A of the CST Act is, the receipt of sale price by the assessee in advance, the agent did not sell the goods over and above it's cost, and the goods were delivered to the consignee directly from the dealer in the same vehicle.

10. Before we delve into the merits of the matter, it is appropriate to refer the judgment of the Hon'ble Supreme Court in ***Deputy General Manager (Appellate Authority) Vs. Ajai Kumar Srivastava*** reported in ***(2021) 2 SCC 612,*** wherein the Hon'ble Supreme Court dealt the contours of powers of the Court under Article 226 of the Constitution of India. The relevant paragraphs are paragraphs 25 & 29 and the same read as follows:-

> *"**25**. It is thus settled that the power of judicial review, of the Constitutional Courts, is an evaluation of the decision-making process and not the merits of the decision itself. It is to ensure fairness in treatment and not to ensure fairness of conclusion. The Court/Tribunal may interfere in the proceedings held against the delinquent if it is, in any manner, inconsistent with the Rules of natural justice or in violation of the statutory Rules prescribing the mode of enquiry or where the conclusion or finding reached by the disciplinary authority if based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached or where the conclusions upon consideration of the evidence reached by the disciplinary authority is perverse or suffers from patent error on the face of record or based on no evidence at all, a writ of certiorari could be issued. To sum up, the scope of judicial review cannot be extended to the examination of correctness or reasonableness of a decision of authority as a matter of fact.*
>
> ***26. ......***
>
> ***27. ....***
>
> ***28. ....***

> *29. The Constitutional Court while exercising its jurisdiction of judicial review Under Article 226 or Article 136 of the Constitution would not interfere with the findings of fact arrived at in the departmental enquiry proceedings except in a case of malafides or perversity, i.e., where there is no evidence to support a finding or where a finding is such that no man acting reasonably and with objectivity could have arrived at that findings and so long as there is some evidence to support the conclusion arrived at by the departmental authority, the same has to be sustained."*

With the above principle in mind, let us consider the merits of this case.

11. It is well settled principle of law that whenever any factual finding is rendered by the authorities, the Writ Court normally will not interfere, unless the same is perverse or contrary to law. Therefore, there is a duty cast upon this Court to find out whether the factual findings rendered by the Sales Tax Appellate Tribunal is in accordance with law. On harmonious reading of the impugned orders, the very reasoning for rejection the assessee's claim under Section 6A of Central Sales Tax Act is on three folds. (i) The agent sold the goods on the cost value, (ii) that the agent did not split the sale in a smaller quantity and (iii) receipt of sale price in advance. In order to substantiate the same, the Sales Tax Appellate Tribunal has extracted certain transactions of assessee's agents. No doubt in some invoices, the gross sale

amount at the hands of the agent, and net amount received by the assessee are one and the same. Therefore, we need to consider whether such thing by itself is an indication of direct inter-State sale.

12. In this regard, it is appropriate to refer the judgments relied by the learned counsel for the assessee. In ***Kumaran Mills Limited's*** case [cited supra], the Division Bench of this Court has categorically held that the mere fact that the same amount mentioned in the sale invoice of the agents by itself cannot be a ground to hold that the transactions are inter-State sales. Therefore, the first factual finding of the Sales Tax Appellate Tribunal to deny the exemption under Section 6-A of the Central Sales Tax Act, is contrary to the above precedents.

13. The another reason to deny exemption is, delivery of goods on the same day of receipt of the material by the agent by the same vehicle. It is common knowledge that delivery of goods on the same vehicle would reduce transport expenditure of the agent. Now, let us see whether such a conduct of an agent by itself can be termed as a disguise pattern to avoid the tax on inter-State sale. The above factual finding is running counter to the Division

Bench judgment of this Court in ***P.M.P.Iron and Steel'***s case [cited supra], wherein this Court held that mere sale transactions effected by the agent on the very day of arrival of goods by itself cannot be the sole basis to treat the sale as "inter-State sale".

14. It is pertinent to mention here that the Sales Tax Appellate Tribunal has also doubted the transaction, on the ground of receipt of sale price in advance. In this regard, it is relevant to refer the judgment in ***Vijendra Engineering's*** case [cited supra], where the Hon'ble Allahabad High Court held that the payment received in advance cannot be said that the movement of the goods was in pursuance of prior contract of sales.

15. At this juncture, it is pertinent to mention here that nowhere the Revenue disputed the existence of the agency of the assessee. But they doubted the transaction on the above factual finding. But, as discussed hereinabove, those factual findings cannot be a ground to deny the relief to the assessee and the ultimate conclusion arrived based on the above factual finding is running counter to the Division Bench judgment of this Court.

16. At this juncture, it is relevant to refer the judgment relied by the

Revenue. In ***Andaman Timber Industries Ltd's*** case [cited supra], the dealer has directly sent the goods in the name of ultimate buyer of the other State, whereas, in the case in hand, admittedly, the agent is available at the relevant place, and the stocks were transferred by the agent to the buyer on the same day.

17. Similarly, the learned Government Advocate relied upon the judgment in ***Sharp Industries's*** case [cited supra], the fact of the above case is also not applicable to the present case. In the above reported case, there is a factual finding that the partners of the agency is the employee of the dealer, further all their sale was made in the name of one buyer. Only on that ground, the Division Bench denied the relief under Section 6A of the Central Sales Tax Act, which is not a case in hand.

18. Similarly, the learned Government Advocate relied yet another ruling in ***Govindan Engineering Foundry's*** case [cited supra]. This case is also not applicable to the present facts of the case. In the above reported case, there is a factual finding that some of the partners of the Dealer are partners in the Agency, and thereby, they doubted the existence of the

Agency. But, in the case in hand, as already stated, the Revenue has not disputed the existence of agency of the assessee. Accordingly, in view of our detailed discussion, we find grounds to interfere with the impugned orders.

19. In the result, all the writ petitions are allowed by setting aside the impugned orders passed by the 1st respondent in S.T.A.Nos.777, 779 & 782 of 2000 respectively dated 11.03.2008. No costs. Consequently, connected MPs are also closed.

(Dr.ANITA SUMANTH, J .) (C.KUMARAPPAN, J.)
24.04.2025

Index : Yes/No

Neutral Citation : Yes/No

Speaking order/Non speaking order
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To
1. The Sales Tax Appellate Tribunal [A.B]
   2nd Floor City Civil Court Buildings,
   Madras High Court Campus,
   Chennai-104.
2. The Appellate Assistant Commissioner [C.T] VI,
   Kuralagam Annexure Building,
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