IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-10-2025

CORAM

THE HONOURABLE MR JUSTICE S.M. SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

WP No.14108 of 2008
AND
WP No.7299 OF 2007, WP No.14109 OF 2008,WP NO.7297 OF 2007,WP NO.7298 OF 2007

WP No. 14108 of 2008

1. M/s.Woodkraft[india] Pvt. Ltd.
Rep.by Its Director
Mr.Karan Goel,
No.56, New Timber Yard Layout,
Mysore Road, Bangalore 26

Petitioner(s)

Vs

1. The Secretary,
Sales Tax Appellate Tribunal,
Addl. Bench,
Coimbatore.

2.The Deputy Commercial Tax Officer, Avinashi Road Circle,
Coimbatore.

Respondent(s)

<u>WP No. 7299 of 2007</u>

1. M/s Prime Interiors
Rep. By Its Proprietor,
Mr.M.G.Chandrasekar,
No.314, III Main 7th Cross,
Dumbur Layout, Bangalore

Petitioner(s)

Vs

1. The Secretary
Sales Tax Appellate Tribunal,
Additional Bench, Coimbatore

2.The Deputy Commercial Tax
Officer, Avinashi Road Circle,
Coimbatore

Respondent(s)

WP No. 14109 of 2008

1. M/s.Woodkraft [india] Pvt.
Ltd., Rep. By Is Director,
Mr. Karan Goel, Mysore Road,
Bangalore 26.

Petitioner(s)

Vs

1. The Secretary,
Sales Tax Appellate Tribunal, Addl.
Bench, Coimbatore.

2.The Deputy Commercial Tax
Officer, Avinashi Road Circle,

Coimbatore.

Respondent(s)

WP No. 7297 of 2007

1. M/s Prime Interiors
Rep. By Its Proprietor,
Mr.M.G.Chandrasekar,
No.314, Iii Main 7th Cross,
Dumbur Layout, Bangalore

Petitioner(s)

Vs

1. The Secretary
Sales Tax Appellate Tribunal,
Additional Bench, Coimbatore

2.The Deputy Commercial Tax
Officer, Avinashi Road Circle,
Coimbatore

Respondent(s)

WP No. 7298 of 2007

1. M/s Prime Interiors
Rep. By Its Proprietor,
Mr.M.G.Chandrasekar,
No.314, Iii Main 7th Cross,
Dumbur Layout, Bangalore

Petitioner(s)

Vs

1. The Secretary
Sales Tax Appellate Tribunal,
Additional Bench, Coimbatore

2.The Deputy Commercial Tax Officer, Avinashi Road Circle, Coimbatore

Respondent(s)

WP No. 14108 of 2008

PRAYER

Calling for the records of the 1st respondent Appellate Tribunal passed in CTA.No.163/2004 dated 12.12.2005, quash the same as illegal and contrary to the provisions of law.

WP No. 7299 of 2007

PRAYER

Call for the records of the 1st respondent-Appellate Tribunal passed in CTA No.161/2004 dated 12.12.2005 quash the same.

WP No. 14109 of 2008

PRAYER

calling for the records of the 1st respondent-Appellate Tribunal passed in CTA.No.164/2004 dt. 12.12.2005, quash the same as illegal and contrary to the provisions of law.

WP No. 7297 of 2007

PRAYER

To call for the records of the 1st respondent-Appellate Tribunal passed in CTA No.162/2004 dated 12.12.2005 quash the same

WP No. 7298 of 2007

PRAYER

To call for the records of the 1st respondent-Appellate Tribunal passed in CTA No.184/2004 dated 12.12.2005 quash the same.

In all Writ Petitions

For Petitioner(s): Mrs.R.Hemalatha

For Respondent(s): R1 Tribunal
Ms.Amirta Poonkodi Dinakaran
Govt.Advocate for R2

COMMON ORDER

(Order of the Court was made by Mohammed Shaffiq J.)

The present writ petitions have been filed praying for a writ of certiorari, challenging the orders of the Sales Tax Appellate Authority, insofar as claim of petitioners that goods procured from Bangalore would be covered under Section 3-B (2)(a) of the Tamil Nadu General Sales Tax Act, 1959, (hereinafter referred to as the "TNGST") and thus not liable to tax was rejected by the Tribunal.

2. Petitioners are engaged in execution of interior works. During the relevant assessment years petitioners were engaged execution of works contract at Coimbatore. The relevant assessment year and the date of assessment are extracted hereunder:

S.No	***W.P.No.***	***Petitioner Name***	***Assessment year***	***Date of Assessment Order***
1	W.P.No.7297/2007	M/s. Prime Interiors	1998-99	27.08.2002
2	W.P.No.7298/2007	M/s. Prime Interiors	1996-97	27.08.2002
3	W.P.No.7299/2007	M/s. Prime Interiors	1997-98	27.08.2002
4	W.P.No.14108/2008	M/s.Woodkraft[India]Pvt	1996-97	27.08.2002
5	W.P.No.14109/2008	M/s.Woodkraft[India]Pvt	1997-98	27.08.2002

3. It is submitted by the learned counsel for the petitioners that for the purpose of executing works contracts, goods were procured from State of Tamil Nadu as well as from outside the State. Insofar as the goods procured from Tamil Nadu are concerned, it is submitted that the goods suffered appropriate taxes under the TNGST Act, petitioners thus claimed the benefit under Section 3-B(2)(b) of the TNGST Act. Insofar as the goods procured from outside the State of Tamil Nadu, it was submitted that these are all inter-State transactions and therefore, would be covered under Section 3-B (2)(a) of the TNGST Act and thus not liable to tax. However, the same was rejected and an order of assessment came to be passed wherein the purchases from outside the State were found to be liable to tax under the TNGST Act. Penalty under Section 12(3)(a) of the TNGST Act at 150% of the tax was imposed. Aggrieved, petitioners preferred appeal before the First Appellate Authority. First Appellate Authority confirmed the order of assessment, on the premise that the property in the goods stood transferred during the course of execution of works contract and passed within the State of Tamil Nadu.

4. Aggrieved, petitioner preferred an appeal before the Sales Tax Tribunal. The Appellate Tribunal again confirmed the order of the First Appellate Authority while finding that the transactions are not inter-state in character thus ineligible for deduction in terms of Section 3-B(2)(a) of the TNGST Act, cannot be sustained inasmuch as the goods are standard goods. Importantly, the inter-state movement cannot be considered as being intended for use in execution of any particular contract. In other words, it was found by the authorities below that there was not even a conceivable link much less inextricable between the inter-state movement and the deemed sale. Thus, the transactions were treated as inter-state works contract (deemed sale) and liable to tax.

5. It is against this order of the Tribunal that the petitioners have preferred these writ petitions. The case of the petitioners is that the purchase of materials from outside the State of Tamil Nadu, namely Karnataka, were meant for being used in execution of works contract within the State of Tamil Nadu, such purchases constitute inter-state transactions, thus would be eligible for the benefit of deduction under Section 3-B (2)(a) of the TNGST Act.

6. To the contrary, it was submitted by Ms.Amirtha that, to constitute a inter-State transaction within the meaning of 3-B(2)(a), it may be necessary for the petitioners to demonstrate that there was a sale/deemed sale and inter-State movement of goods and that such sale/deemed sale occasioned the inter-State movement. She would submit that the expression “occasion” employed in Section 3(a) of CST Act has been construed by this Court as well as the Hon'ble Supreme Court of India on numerous occasions and it has been consistently held that there must be conceivable if not inextricable link between the movement and the inter-State sale/deemed sale. She would also submit that these goods are standard goods and could be diverted. She would also submit that there is no evidence whatsoever, which has been let in, to show a conceivable if not an extricable link between inter state movement and deemed sale (works contract). In view thereof, she would submit that the order of the Tribunal finding that these are not inter-State transactions of work contract falling under Section-3B(2)(a) of the Act, may not warrant interference.

7. Having considered the rival submissions, we find that, question whether a particular transaction is an inter-State sale or an intra-State sale is essentially a mixed question of fact and law. As submitted by the learned counsel for the respondents, there appears to be no materials whatsoever which has been let in by the learned counsel for the petitioners before the Assessing Authority as well as the Appellate Authorities, to indicate that there is atleast some conceivable link between the inter-State movement and the sales/deemed sale. The above finding being essentially a question of fact would not warrant interference unless shown to be perverse which is not the case. In view thereof, we are of the view that the order of the Tribunal does not warrant interference.

8. Now coming to the issue of penalty, we find that while the assessing authority and the First Appellate Authority have proceeded to treat the assessment as original assessment and proceeded to levy penalty under Section 12(3) of the TNGST Act, however, Tribunal found that the assessment in fact falls under Section 16 of the TNGST Act and had proceeded to confirm the levy of penalty under Section 16(2) of the TNGST Act.

9. We find that insofar as penalty under Section 16(2) of the TNGST Act, Tribunal ought to have seen that neither the Assessing Authority nor the Appellate Authority had any occasion to examine the question as to whether there was any willful non-disclosure of turn-over. Levy of penalty under Section 16(2) can be invoked only if the Authority is satisfied that the escape from assessment is due to willful non-disclosure of assessable turn-over. We find that there is no finding either by the Assessing Authority as well as the First Appellate Authority nor the Tribunal that there was escapement of turn-over due to willful non-disclosure of assessable turn-over by the petitioners, which may prove fatal.

10. In this regard it may be relevant to refer to the judgment in the case of ***Ramankutty Nadar Vs. State of Madras***[1]**,** wherein it was held that in the absence of finding of willful non-disclosure, levy of penalty under Section 16(2) of the TNGST Act cannot be sustained. The above view was reiterated in the case of ***Regional Assistant Commissioner of Sales Tax, Indore Vs. Malwa Vanaspati and Chemical Co. Ltd***[2] and ***V.S.Prabhakaran and Co***

1 31 STC 44
2 1968 21 STC 431

Vs. State of Kerala*[3]*.

11. Since we find that there is no finding recorded by the lower authorities in the above aspect, levy of penalty under Section 16(2) of the TNGST Act by the Tribunal cannot be sustained. Accordingly, the orders made in CTA.Nos.161 to 164 & 184 of 2004, dated 12.12.2005 are modified on the above terms and the Writ Petitions are partly allowed. No costs. Consequently, the connected miscellaneous petitions, if any, are closed.

(S.M.SUBRAMANIAM J.)(MOHAMMED SHAFFIQ J.)
13-10-2025

gd
Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

To :
1.The Secretary,
Sales Tax Appellate Tribunal, Addl.
Bench, Coimbatore.

2.The Deputy Commercial Tax
Officer, Avinashi Road Circle,
Coimbatore.

3 2001 121 STC 586

S.M.SUBRAMANIAM J.
AND
MOHAMMED SHAFFIQ J.

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