IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-12-2025

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

WP Nos.7264, 7265, 7266 and 7267 of 2008
AND WP(MD) NO. 6327 of 2009

and M.P.Nos.2,2,2,2 and 3 of 2008

M/s.Sennar Paper Boards P Ltd
Rep By Its Director, No.3/2, Umayal Street, Kilpauk,
Chennai-10.

..Petitioner in
W.P.Nos.7264, 7265,
7266 and 7267 of 2008

Vs

1.The State Of Tamil Nadu,
Rep By Its Secretary, Commercial Taxes And
Religious Endowment Department, Secretariat, Fort
St.George, Chennai-9.

2.The Commissioner Of Commercial
Taxes, Ezhilagam, Chepauk, Chennai-5.

3.The Commercial Tax Officer,
Kilpauk Assessment Circle, Chennai.

..Respondents in
W.P.Nos.7264, 7265,
7266 and 7267 of 2008

Tvl Goodwill Team Papers Ltd.,
Rep. By Its Managing Director P. Rajendran,
Uthappanaickanur - 626 537. Usilampatti Taluk,

Madurai District.

..Petitioner in W.P. (MD).No.6327 of 2009

Vs

1.The State Of Tamilnadu Rep. By Its
Secretary to the Government,
Commercial Taxes & Registration Department,
Fort St.George, Chennai.

2.The Commissioner Of Commercial Taxes
Ezhilagam, Chepauk, Chennai 600 005.

3.The Commercial Tax Officer
Thirumangalam.

..Respondents in W.P. (MD).No.6327 of 2009

PRAYER IN W.P.NO.7264 of 2008: Writ petition filed under Article 226 of Constitution of India for issuance of Writ of Certiorari calling for the records of the first respondent in the impugned in G.O.Ms.No.198, Commercial Taxes and Registration (B2) in Notn. No.II/CTR/75 (b2)/2007 dated 19.12.2007 and quash the same as illegal irrational and contrary to the provisions of the Tamil Nadu Value Added Tax Act,2006.

PRAYER IN W.P.NO.7265 of 2008: Writ petition filed under Article 226 of Constitution of India for issuance of Writ of Certiorari calling for the records of the third respondent in TNGST/1121722/2005-2006 passed dated 19.3.2008 pursuant to the impugned in G.O.Ms.No.198, Commercial Taxes and Registration (B2) in Notn. No.II/CTR/75 (b2)/2007 dated 19.12.2007 and quash the same as illegal irrational and contrary to the provisions of the Tamil Nadu Value Added Tax Act,2006.

PRAYER IN W.P.NO.7266 of 2008: Writ petition filed under Article 226 of Constitution of India for issuance of Writ of Certiorari calling for the records of the third respondent in TNGST/1121722/2004-2005 passed dated 19.3.2008 pursuant to the impugned in G.O.Ms.No.198, Commercial Taxes and Registration (B2) in Notn. No.II/CTR/75 (b2)/2007 dated 19.12.2007 and quash the same as illegal irrational and contrary to the provisions of the Tamil Nadu Value Added Tax Act,2006.

PRAYER IN W.P.NO.7267 of 2008: Writ petition filed under Article 226 of Constitution of India for issuance of Writ of Certiorari calling for the records of the third respondent in TNGST/1121722/2003-2004 passed dated 19.3.2008 pursuant to the impugned in G.O.Ms.No.198, Commercial Taxes and Registration (B2) in Notn. No.II/CTR/75 (b2)/2007 dated 19.12.2007 and quash the same as illegal irrational and contrary to the provisions of the Tamil Nadu Value Added Tax Act,2006.

PRAYER IN W.P.(MD).NO.6327 of 2009: Writ petition filed under Article 226 of Constitution of India for issuance of Writ of Certiorari calling for the records on the files of the 1st Respondent in Notification No.II (1) / CTR / 75 (b-2) / 2007 issued in G.O.Ms.No. 198, Commercial Taxes and Registation (B2) dated 19.12.2007 and quash the same as illegal, invalid, without authority of Law, unsustainable and contrary to the provisions of the Tamil Nadu Value Added Tax Act, 2006 insofar as the petitioners is concerned and pass such other order.

In all cases

For Petitioner(s): Mr.A.Chandrasekaran

For Respondent(s): Mr.C.Harsha Raj
Special Government Pleader

COMMON ORDER

(Order of the Court was made by Dr.Anita Sumanth J.)

Both Mr.A.Chandrasekaran, learned counsel for the petitioner and Mr.C.Harsha Raj, learned Special Government Pleader for the respondents submit that the challenge to Notification No.II91)/CTR/75(b-2)/2007 dated 19.12.2007 in G.O.Ms.No.198 Commercial Taxes and Registration (B2) dated 19.12.2007 has already been decided by a Division Bench of this Court in *VG Paper and Boards Ltd. V. The Government of Tamil Nadu and others* (W.P.No.36170 of 2007 etc. batch dated 21.12.2022) in favour of the assessee. The operative portion of order dated 21.12.2022 is extracted below:

> *'17. We are therefore of the view that though exemption notifications ought to be strictly construed and in the event of any ambiguity it must be interpreted in favour of the Revenue, however one cannot curtail or add words by calling in aid the intent of grant of exemption nor can the government aid the authority granting notification or the Legislature in the event of a defective phrasing by adding or mending and thereby making up deficiencies with a view to further supposed intention. The submissions of the revenue on the basis of supposed intention in granting exemption deserves to be rejected.*
>
> *18. In view of the repeal of TNGST Act, 1959 and introduction of TNVAT Act, 2006, doubts were expressed if the impugned notification is traceable to Section 17 of TNGST Act or Section 30 of the TNVAT Act. It is clear that the power whether traceable to sub~Section (3) to Section 30 or sub~Section (3) to Section 17 of the TNVAT Act or TNGST Act, respectively cannot be exercised to withdraw or import a condition and impose a disqualification or ineligibility retrospectively as would be clear from the above discussion.*
>
> *19. We have no hesitation in holding that the impugned notification travels beyond the scope of power conferred under sub~Section (3) to Section 17 (or) Section 30 of the TNGST Act and the TNVAT Act respectively and thus the impugned notification viz., Notification No.II (1)/CTR/75 (b~2)/2007, dated 19.12.2007 (G.O.Ms.No.198) is ultra vires to Sections 17 of the TNGST Act,*

> *1959 (or) Sections 30 and 88 of the TNVAT Act, 2006, insofar as it imports conditions with retrospective effect which has the effect of curtailing/ whittling down the scope of exemption granted vide notification in G.O.Ms.No.176 dated 28.12.2006.*
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> *20. It was submitted that in view of Section 88(2)(i) of the TNGST Act , the saving is only in respect of notifications, which continued to be in force on or before the introduction of the TNVAT Act. However, the original notification dated 28.12.2006, had a limited operation and for a temporary period, which has expired long before the impugned notification importing the additional condition/ obligation was issued. The impugned notification is bad for the said reason as well. We are not inclined to examine the above question in view of the fact that we have already held that the impugned notification is ultra vires the power under Section 17(3) (or) Section 30(3) of the TNGST Act and the TNVAT Act respectively.*
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> *21. Coming to second question as to the applicability of 'Unjust Enrichment', except in one case, viz., W.P.No.6519 of 2009, it was submitted by the learned counsel for the petitioners in the other matters that as and when a claim for refund is made, if the Assessing Officers choose to examine the claim applying the principle of "Unjust Enrichment", they would respond/ meet the said aspect. '*

2. In fine, the impugned Notification was declared as invalid and an excess of the power conferred on the State Government under the applicable provisions of the Tamil Nadu General Sales Tax Act, 1959 and Tamil Nadu Value Added Tax Act, 2016. The orders of assessment relying on the Notification were set~aside, and there was a direction to re-do the assessments in accordance with law, de hors the Notification.

3. The ratio of the aforesaid decision would be applicable to the present cases as well and hence the impugned Notifications are quashed. These Writ Petitions are allowed. No costs. Connected Miscellaneous Petitions are closed.

(A.S.M.,J.) (M.S.K.,J.)
10-12-2025

Index: Yes/No
Speaking order
Neutral Citation: Yes

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To

1.The Secretary, Commercial Taxes And Religious Endowment Department, Secretariat, Fort St.George, Chennai-9.

2.The Commissioner Of Commercial Taxes, Ezhilagam, Chepauk, Chennai-5.

3.The Commercial Tax Officer,
Kilpauk Assessment Circle, Chennai.

4.The Secretary to the Government,
Commercial Taxes & Registration Department,
Fort St.George, Chennai.

5.The Commercial Tax Officer
Thirumangalam.

DR.ANITA SUMANTH J.

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MUMMINENI SUDHEER KUMAR J.

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