IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2025

CORAM:

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

W.P.No. 851 of 2005

The State of Tamil Nadu,
Represented by
The Deputy Commissioner (CT),
Coimbatore Division,
Coimbatore. ...Petitioner

Vs.

1.Tvl.Essorpee Mills Limited,
Coimbatore.

2.The Secretary,
The Tamil Nadu Sales Tax Appelate Tribunal (Additional Bench),
Coimbatore.

...Respondents

PRAYER: This Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records on the file of the second respondent pertaining to the order dated 10.01.2003 made in C.T.A.No.46 of 1997 and quash the same as illegal.

For Petitioner : Mr.V.Prashant Kiran,
Govt. Advocate (Tax)

For Respondents : Mr.N.Parsad for R1
R2 – Tribunal

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ORDER

(Order of the Court was made by MOHAMMED SHAFFIQ, J.)

This Writ Petition has been filed by the State challenging the order of the Sales Tax Appellate Tribunal, 2nd respondent herein whereby, appeal filed by Essorpee Mills Limited/ 1st respondent herein challenging order of the appellate Authority/ 2nd respondent rejecting petitioners claim of stock transfer under Section 6A, while treating the same to be a transaction constituted inter-state sale within the meaning of Section 3(a) of the Central Sales Tax Act, 1956 was allowed.

2. Petitioner is engaged in manufacture and sale of Polyester viscose. For the assessment year 1994-95, petitioner claimed non-liability under Section 6A of Central Sales Tax Act, 1956 in respect of sum of Rs.3,48,93,818/- on the premise that it constitutes stock transfer in terms of Section 6A of the Central Sales Tax Act. Above claim of petitioner was supported by Form - F declarations.

3. A notice came to be issued on 03.07.1996 proposing to reject the claim of stock transfer, on the premise that inter-state movement was against prior orders and on receipt of value of goods from the buyers even before commencement of inter-state movement

4. Petitioner submitted their reply *inter alia* stating that mere fact that there was earlier realization of proceeds by itself would not conclusively show that the inter-state movement was occasioned by sales. Secondly it was also submitted that there was generalization of the entire claim by looking at certain transactions in random which may not be permissible. However, the order of assessment came to be passed rejecting petitioners claim of stock transfer and the transactions in question were treated as inter-State sales falling under Section 3(a) of Central Sales Tax Act.

5. Aggrieved, petitioners preferred an appeal before the Appellate Deputy Commissioner (CT) in AP.CST.No.15 of 1996. The appellate Authority viz., the Appellate Deputy Commissioner vide order dated 29.01.1997 confirmed the order of assessment. Aggrieved, petitioners preferred an appeal before the Sales Tax Appellate Tribunal in CTA.No.46 of 1997. The Tribunal vide order dated 10.01.2003 reversed the order of the original Authority as well as first appellate Authority and observed that the claim of inter-State sales by the revenue was not proved on the basis of any material evidence, which would indicate that there was movement with reference to specific orders. Importantly it was found that there was no conceivable link between the inter-state movement and the sale in the other State, for the transaction to be treated as inter-State sales. It may be relevant to extract the relevant findings of the Tribunal, which reads as under :

> *" 46. In the appellant case, the Assessing Authority had accepted the documents received by the appellants and could not contradict it and in such circumstances he was wrong in concluding that the movement of goods from this State to another as a character of inerstate sales. The interstate sales has to be proved not by way of general observations and evidences but with reference to a specific movement as to whether they were sent in pursuant to a specific contract of sale or not. Thus, there was no conceivable link between the movement of goods from the principal to the agent in other state to have a direct link with the other state dealers to call a transaction as a direct result of sale. We therefore have no hesitation in holding that the assessment has been wrongly made in respect of the sale effected through the agents outside the State. The Department has also not established that the claim of the assessee under Sec.6A is not acceptable either because the documents were incomplete or the details recorded therein were un true. Therefore, under the given facts and circumstances of the case and following the ratio of the principles settled in the higher appellate forums and for the factual records submitted by the appellants, we are to hold that the appellants are not liable to pay any tax on their sales through the agents outside the state. In view of the*

above, we set aside the levy of tax on the disputed turnover in full.”

6. Whether the transaction sale is inter-State sale or not is a mixed question of facts and law. This Court would not interfere merely because a different view is possible, unless it is shown that the conclusion that is arrived at is contrary to law and/or suffers from perversity.

7. To a pointed question to the learned Government Advocate as to how the finding of the Tribunal is perverse or erroneous, he would reiterate the grounds and would only submit that the order of the Tribunal warrants interference. To a further question if there is any material to show that there was an inextricable or conceivable limits between the sale and inter-state movement, he was not able to show any material evidence.

8. In the circumstances, this Court is of the view that as stated above question as to whether a transaction is an inter-State or stock transfer is a mixed question of law and facts and thus, this Court is not inclined to interfere with the finding of fact rendered by the Tribunal, which is the highest fact finding body under the Central Sales Tax Act. That apart contention/ submission/ rejection of claim of stock transfer suffers from infirmity of having generalized the entire claim of stock transfer on the basis of a few random transactions which vitiates the proceedings in view of the law laid down by the Hon'ble Supreme Court in the case of ***Tata Engineering and Locomotive Company Limited Vs. Assistant Commissioner of Commercial Taxes, Jamshedpur and another*** reported in ***26 STC 354.*** In view thereof, order of the Appellate Tribunal is confirmed and the Writ Petition stands **dismissed**. No costs.

(S.M.S., J.) **(M.S.Q., J.)**
08.10.2025

dsa
Internet :Yes/No
Index :Yes/No
Neutral Citation :Yes/No

To:

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The State of Tamil Nadu,
Coimbatore Division,
Coimbatore.

2.The Secretary,
The Tamil Nadu Sales Tax Appelate Tribunal (Additional Bench),
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S.M.SUBRAMANIAM, J.
and
MOHAMMED SHAFFIQ, J.

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