IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2025

CORAM :

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

Tax Case (Revision) No.14 of 2025

Siddharth Hall Marking and Assaying Centre,
No.59-61, Jayarama Chetty Street,
Vellore. .. Petitioner

Vs

State of Tamil Nadu
rep. by the Joint Commissioner (CT)
Vellore. .. Respondent

PRAYER: Revision under Section 60 of the TNVAT Act, 2006 read with Rule 14(13) of the Tamil Nadu Value Added Tax Rules, 2007 to revise the order dated 5.11.2024 passed in S.T.A.No.422 of 2017, by the Tamil Nadu Sales Tax Appellate Tribunal (Main Bench), Chennai.

For Petitioner(s): Mr.A.Chandra Sekaran

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

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

The tax case revision impugns an order dated 5th November, 2024 passed by the Tamil Nadu Sales Tax Appellate Tribunal (Main Bench), Chennai, by which the Tribunal has set aside the order passed by the Appellate Deputy Commissioner(CT), Vellore and remanded the matter to the Assessing Officer.

2. Here is a case where petitioner had made inter-State purchase of X-ray, Xan 250, hp CPU, which commodity was not permitted to them to purchase or sales against Form 'C' under the Central Sales Tax Act, 1956 [CST Act]. Petitioner has issued 'C' Form to other State dealer.

3. It is revenue's case that without having permission in 'B' certificate issued under the CST Act, they made purchase from other State by violating the provisions of CST Act. Hence, penalty under Section 10-A of the CST Act was levied. The proposed penalty of 150% was Rs.5,65,500/-. Aggrieved by the order dated 18th March, 2015 of the assessing authority,

petitioner preferred an appeal before the Appellate Deputy Commissioner (CT), Vellore. The appellate authority modified the order by reducing the penalty to 25% of the tax due instead of 150%. The tax liability was also reduced to Rs.3,25,000/- against Rs.3,77,000/-.

4. Revenue, unhappy with this order, has preferred an appeal before the Tribunal. The Tribunal, after considering the provisions in detail, found that the matter requires re-consideration by the assessing authority. It was the case of the dealer that the machinery was purchased for hallmarking and assaying gold jewellery, integral to their business. The State's case was though the dealer had purchased the goods which were directly or indirectly involved in the manufacturing activities, such purchases were not found in the Certificate of Registration and, hence, attracts penalty under Section 10A of the CST Act.

5. Under the 'C' Form issued, certain declarations have to be made. When we asked counsel to produce copies of the 'C' Forms, the same were not available. Counsel stated that his instructions are the 'C' Forms have

been given to the dealer who sold the goods and, hence, petitioner does not have copies of the 'C' Forms.

6. In the matter at hand, the Tribunal has only remanded the matter for fresh consideration. The grievance of petitioner is that the remand is for limited purpose to ascertain what is the actual tax paid in the other State and that may be taken into account to ascertain the balance of penalty of 150%. Counsel stated that no penalty is in fact payable.

7. The fact that the 'C' Form itself is not made available to this court for verification makes us to draw adverse inference. Therefore, the appeal is dismissed.

8. At the same time, if party produces the 'C' Form and other evidence to the assessing authority, the assessing authority may consider the same and pass orders in accordance with law.

There shall be no order as to costs.

(K.R.SHRIRAM, C.J.) (MOHAMMED SHAFFIQ,J.)

01.04.2025

Index : Yes/No
NC : Yes/No
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To:

1. The Manager
Tamil Nadu Sales Tax Appellate Tribunal
Chennai – 600 104.

2. The Appellate Deputy Commissioner (CT)
Vellore.

3. The Joint Commissioner (CT)
Vellore.

4. The Assistant Commissioner (CT)
Vellore (South).

THE HON'BLE CHIEF JUSTICE
AND
MOHAMMED SHAFFIQ,J.

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