



WEB COPY

W.A.No.1008 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2025

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER
KUMAR

W.A.No.1008 of 2022
and
C.M.P.No. 6397 of 2022

M/s.Consolidated Construction Consortium Ltd.,
Rep. by its Resolution Professional,
Mr.Krishnasamy Vasudevan
Reg.No.IBBI/PA-001/IP-P00155/2017-18/10324
No.5, 2nd Link Street,
CIT Colony,
Mylapore, Chennai – 600 004.

Now at
No.8/33, Padmavathiyaar Road,
Jeypore Colony,
Gopalapuram,
Chennai – 600 086.

.. Appellant

VS

The Commercial Tax Officer
Mylapore Assessment Circle,
Chennai.

.. Respondent

Prayer : Appeal filed under Clause 15 of the Letters Patent against the
order dated 11.08.2021 passed in W.P.No.5977 of 2015.



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For Appellant : Mrs.Aparna Nandakumar
For Respondents : Mr.V.Prashanth Kiran
Government Advocate (Tax)

JUDGMENT

(Delivered by Dr. ANITA SUMANTH.,J)

The present appeal is filed assailing order dated 11.08.2021, wherein the appellant has challenged an order of assessment passed under the provisions of the Tamil Nadu Value Added Tax Act, 2006 ('Act'), dated 11.02.2015, qua assessment year 2013 -14. The writ petition come to be dismissed relegating the appellant to statutory remedy by way of appeal.

2. We have heard Ms.Aparna, who appears for the appellant. Prior to completion of assessment, the authority had issued notice dated 07.11.2014 calling for an explanation in regard to a claim of Input Tax Credit (ITC) availed under invoice dated 10th March, 2014. The officer refers therein to the fact that the registration of the selling dealer had been cancelled as on 21.02.2014.

3. The appellant submitted objections to the effect that though the effective date of cancellation of the registration was 24.02.2014, which



was prior to the date of transaction i.e., 10.04.2014, the fact of cancellation was not known to the appellant who should therefore not be penalised for the same.

4. The appellant was heard in-person, post which, the impugned order of assessment came to be passed, wherein the assessing authority confirms the proposal for reversal of ITC. The officer holds that the burden of proof under Section 17 of the Act had not been discharged by the appellant, and neither movement of goods nor mode of payment proven.

5.The primary argument of the appellant is that the order of assessment proceeds on a premise that was never put to the appellant, as according to the appellant, the only question raised by the officer in the pre-assessment notice related to the cancellation of registration of the selling dealer.

6. Mr.Prashanth, learned Government Advocate, appearing for the respondent would, however disagree, pointing out that in notice dated 07.11.2014, the assessing authority has clearly alleged that the transaction in question was with a bill trader and that the appellant had not discharged the burden under Section 17 of the Act.

7.He relies on the judgment of the Supreme Court in *State of*



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*Karnataka V. Ecom Gill Coffee Trading Private Limited*¹ and a decision of this Court in *Sahyadri Industries Limited V. State of Tamil Nadu*².

Incidentally, Mrs.Aparna would point out that the benefit of the aforesaid two decisions were unavailable to the assessee at the relevant point in time.

8. We heard both the learned counsel and perused the material papers as well as the cases relied upon.

9. We are called upon to examine whether the order of assessment dated 11.02.2015 is contrary to the provisions of natural justice, proceeding on a premise that had not been put to the assessee in the show cause notice. For this purpose, we turn to show cause notice dated 07.11.2014. The assessing authority has verified the monthly return for the month of March, 2014 and noticed that the dealer had made a purchase from one Ocean Impex, whose registration had been cancelled on 21.02.2014.

10.The proposal of the officer is to reverse the claim of ITC on the premise that said Ocean Impex is a 'bill trader'. He calls for objections to the proposal to disallow the ITC claimed. Hence, it is for the assessee to place before the officer all evidences in its possession to establish the veracity of the transaction, and in this regard, we are of the view that

12023 SCC OnLine SC 248

2115 GSTR 320

4/9



there is no necessity for the assessing authority to spell out or suggest the measures that may be taken by the assessee.

11. As pointed out by the State, the appellant has chosen consciously only to justify the position regarding the cancellation of registration, relying upon cases where Courts have held that there could be no adverse impact of cancellation of registration upon transactions that had taken place prior to the date of such cancellation. However, there are other facets of the notice that assessee has chosen not to address.

12. Section 17 of the Act specifically casts the burden of proof upon the dealer in respect of proving any transactions or turnover. This is made explicit in the case of a claim for ITC, under Section 17(2). It was hence incumbent on the assessee to have addressed the question of whether at all the transaction with Ocean Impex was legitimate, and in that context, provide all material particulars, including invoices, chalang, transport document etc., to prove movement of goods.

13. Since in this case, no such documents had been produced, the officer confirms the proposal for reversal of ITC. The writ Court has confirmed the order of assessment holding that preferring a statutory appeal is the Rule and no justifiable reason had been given to treat this matter as an exception. The appellant had hence been relegated to statutory appeal.



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14. In *Ecom Gill* (supra), the Supreme Court has considered the scope of Section 70 of the Karnataka Value Added Tax Act, 2023 relating to 'Burden of Proof' which is in parimateria with Section 70 of the TNVAT and holds at paragraph 23, as follows:-

'23. Thus, the provisions of Section 70, quoted hereinabove, in its plain terms clearly stipulate that the burden of proving that the ITC claim is correct lies upon the purchasing dealer claiming such ITC. Burden of proof that the ITC claim is correct is squarely upon the assessee who has to discharge the said burden. Merely because the dealer claiming such ITC claims that he is a bona fide purchaser is not enough and sufficient. The burden of proving the correctness of ITC remains upon the dealer claiming such ITC. Such a burden of proof cannot get shifted on the revenue. Mere production of the invoices or the payment made by cheques is not enough and cannot be said to be discharging the burden of proof cast under section 70 of the KVAT Act, 2003. The dealer claiming ITC has to prove beyond doubt the actual transaction which can be proved by furnishing the name and address of the selling dealer, details of the vehicle which has delivered the goods, payment of freight charges, acknowledgement of taking delivery of goods, tax invoices and payment particulars etc. The aforesaid information would be in addition to tax invoices, particulars of payment etc. In fact, if a dealer claims Input Tax Credit on purchases, such dealer/purchaser shall have to prove and establish the actual physical movement of goods, genuineness of transactions by furnishing the details referred above and mere production of tax



invoices would not be sufficient to claim ITC. In fact, the genuineness of the transaction has to be proved as the burden to prove the genuineness of transaction as per section 70 of the KVAT Act, 2003 would be upon the purchasing dealer. At the cost of repetition, it is observed and held that mere production of the invoices and/or payment by cheque is not sufficient and cannot be said to be proving the burden as per section 70 of the Act, 2003.'

15. The Court has held that mere proving of invoices or payments through challans would not suffice as far as proving the burden under Section 70 is concerned. The question of proving the transaction, including movement of goods, thus rests on the dealer concerned and is mandatorily to be discharged in order to sustain a claim of ITC.

16. This Court in *Sahyadri Industries Limited* (supra) has also taken a similar view, relegating those assesseees to statutory appeal in similar / identical circumstances.

17. In this case, admittedly, no records have been produced before the authority, including any documents to establish actual movement of the goods. The query under pre-assessment notice dated 07.11.2014 related to the claim that the appellant had not proved by way of sufficient evidence. The allegation in the pre-assessment notice that the transaction was with a bill trader by itself, imputes the very credibility of the transaction. Hence the appellant has not discharged the burden cast upon



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it by virtue of Section 17 of the Act and we thus find nothing untoward in the conclusion of the authority that the transaction was not proved and disallowing the claim of ITC. The order of the writ Court relegating the appellant to statutory appeal is upheld.

18. This writ appeal stand dismissed in terms of this order. No costs. Connected miscellaneous petition is closed.

[A.S.M, J.] [M.S.K, J.]
04.12.2025

Index:Yes
Neutral Citation:Yes
ssm

To

The Commercial Tax Officer
Mylapore Assessment Circle,
Chennai.



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DR. ANITA SUMANTH,J.
and
MUMMINENI SUDHEER KUMAR,J.

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