



T.C.No.60 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2025

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CORAM :

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

T.C.No.60 of 2025

The State of Tamil Nadu,
Represented by the Joint Commissioner (CT),
Erode Division (Erstwhile Salem Division),
Erode.

.. Petitioner

VS

Tvl.Periyasamy Hydraulic Equipments,
No.24-A, P.N.Road,
Kunnathur.

.. Respondent

Prayer : Petition filed under Section 60 of the TNVAT Act, 2006 to set aside the order dated 12.10.2023 passed by the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench) Coimbatore in CTSA.No.44 of 2018 and confirm the order passed by the Assistant Commissioner (ST), Perundurai Assessment Circle dated 30.10.2017.

For Petitioner : Mr.C.Harsha Raj
Special Government Pleader



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ORDER

(Delivered by Dr. ANITA SUMANTH.,J)

WEB COPY The State is in appeal challenging the order passed by the Tamil

Nadu Sales Tax Appellate Tribunal (in short 'Tribunal'/'STAT') dated 12.10.2023 raising the following substantial question of law:-

'Whether the order of the learned Tribunal in treating Rig Mounting as 'works contract' stands vitiated in as much as it fails to take into account the relevant facts and has taken into account facts that are wholly irrelevant in deciding whether mounting of Rig would amount to 'works contract' in terms of Section 5 of the TNVAT Act, 2006?'

2. The order of the Tribunal is common to assessment years 2011-12 to 2015-16. However, the present Tax Case pertains to assessment year 2011-12 only.

3. The issue that arises for consideration is the applicable rate of tax in respect of a transaction of fabrication work involving assembling of chassis, lorry and compressor, together constituting a Rig. The assessee had adopted the stand at the time of assessment that the transaction involved works contract insofar as the activity engaged in by it was only fabrication work. Essentially the assessee had fabricated the body of the Rig, encompassing the lorry and compressors supplied by the purchaser on a moulding iron sheet and fitted the same on a chassis.



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4. The assessee had relied on Circular No.VAT Cell/20344/2007

dated 25.05.2007 (VCC No.582) that reads as follows:

'Water borehole drilling rigs: Water borehole drilling rigs are taxable at 4% vide entry No.138 of Part-B to First Schedule to TNVAT Act 2006 with effect from 01.01.2007.'

5. The Assessing Authority, however, did not concur with the assessee on the ground that the aforesaid clarification had not been issued specifically in the case of the assessee. On the contrary, he relied the Advance Ruling issued by the Commissioner of Commercial Taxes in ACAAR No.080/2013-14/dated 22.07.2014 to Hydraulic Machinery that clarifying that any kind of machinery which fits the description of Hydraulic Machinery and that did not find place in First or Fourth Schedules would be liable to tax at the rate of 14.5%.

6. Hence, he adopted the rate of 14% as against the rate of 5% as claimed by the assessee. The assessment came to be completed by the Assessing Authority relying on the aforesaid Advance Ruling as well as the decision in *Nokia India Pvt. Ltd. V. State of Punjab* (2011-12 (16) KCTJ 16) and was carried in appeal, where it was reversed by the Appellate Deputy Commissioner which order was confirmed by the Tribunal as well.

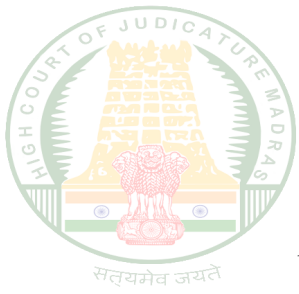


7. Thus, the State, before us, is faced with two concurrent orders

where, both the first and second appellate authorities concur on the position that the transaction engaged in by the assessee would only be one of 'works contract' as it was a mere assembly/fabrication of the body of a Rig where the lorry and compressor had been supplied by the purchaser.

8. To be noted, there is no factual dispute on the position that what has been undertaken by the assessee is only fabrication and that the iron sheets, lorry and compressor have, in fact, been supplied only by the consumers. The Tribunal has gone into the issue in detail and the operative portion of the order of the Tribunal reads as follows:

'10. This Tribunal being the final fact finding authority of the State appellate forum, would analyse the issue on hand with reference to facts available in this case and the law and judicial pronouncements. Admittedly in this case, as rightly contended by the respondent/dealer, the "Chassis on which the rig mounting was made" was not the property of the respondent/dealer. The chassis with wheels and tyres were purchased by the customers in their name and brought to the works shop of the respondent/dealer who are having skilled and technical labours in mounting the drilling tools either manufactured by them are bought by them from other manufacturers as "tools". The heavy sheets especially designed and suitable for loading the drilling unit is also purchased by the respondent/dealer and fabricated as plat form on convenient span on the chassis brought by the customers and installed then with the drilling tools unit thereon the



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platform so fabricated on the chassis. This kind of activity with no doubt can be classified as works contract as in the case of body building on the chassis of customers. In such contracts, the parties agree to construct, erect or fabricate certain assets which are immovable (from the chassis) but which involve the consumption or use of goods (such as iron and steel in this case). Such contract do not amount to contracts for the sale of goods as there is no transfer of property of them as chattel and, unless they so stipulate, they are not severable into contracts for work and contracts for sale of goods. It will be observed from the neutral factors that mere passing of the property in some goods during the course of performance of works contracts does not render the transactions as sales of the goods. Even in a contract purely of work or service, some goods have to be used by the person executing the work and title over those goods may pass to the other party but that will not make or convert the contract as one of sale of goods. In such contracts, there is no property vested in the person performing or rendering service over the thing produced as a whole, though a part or whole of the materials used by him may have been his property, as held in the decision in the case of Hindustan Aeronautics (1984) reported in 55 STC 317 and 327 (SC).

9. Learned Special Government Pleader, while acceding to the admitted facts, does not have any material to disprove the concurrent findings of both the appellate authorities. We hence affirm the same, being of the view that the functionality of the end product would not determine the nature of activity engaged in by the assessee.



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10. The question of law is answered in favour of the assessee.

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[A.S.M., J] [M.S.K., J]
06.06.2025

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