BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated	:	12.05.2025

CORAM:

THE HON'BLE Mr.JUSTICE **P.VELMURUGAN**
and
THE HON'BLE Mr.JUSTICE **K.K.RAMAKRISHNAN**

TC (MD).No.21 of 2010

M/s.Shri Natraj Ceramic & Chenical Industries Ltd.,
Dalmiapuram,
Trichy. ... Appellant

Vs.

The State of Tamil Nadu represented by
The Joint Commissioner (CT),
Trichy Division, Trichy. ... Respondent

Prayer:

Tax Revision Case has been filed under Section 60(1) of the Tamilnadu Value Added Tax Act, 2006, to set aside the order of the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai, in MTA.No.48 of 2009 dated 17.08.2010.

For Appellant : Mr. S.Karunakar

For Respondent : Mr.R.Suresh Kumar,
Additional General Pleader

JUDGMENT

(Order of the Court was made by **K.K.RAMAKRISHNAN J.,)**

The present Tax Case Appeal is filed seeking to set aside the order dated 17.08.2010 passed by the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai, in MTA.No.48 of 2009.

2. The brief facts of the case are as follows:-

The appellant is a manufacturar of Refratory products. They entered into an agreement with M/s.Dalmia Cement (Bharat) Limited (herein thereafter called DCL) on 27.11.1997 wherein they undertook to carry out the job work of manufacturing the refratory products by using the basic raw materials supplied by DCL. They are the registered dealer under the Tamil Nadu Value Added Tax Act, 2006. They made the assessment for the year 2006 – 2007 under the Tamil Nadu Value Added Tax Act, 2006 as per the original assessment order dated 30.06.2008 passed against them.

Subsequently, the assessment was revised by the assessing authority for the wrong claim of '*input tax credit*' on capital goods for the reason that the appellant was only doing job work to the Tvl.Dalmia Cements (P) Limited and they are not eligible to claim input tax credit on capital goods and therefore, there is a claim of Rs.3,06,337/-. The said reassessment order was challenged by the appellant before the Appellate Deputy Commissioner (CT), Trichy. The Appellate Deputy Commissioner (CT), Trichy, declined to accept their appeal and hence, they preferred further appeal before the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai, in MTA.No.48 of 2009 and the same was dismissed by the order dated 17.08.2010. Aggrieved over the said order, the appellant has preferred the present appeal.

2.1. The learned counsel for the appellant would submit that both the Authorities failed to consider that the appellant is entitled to input tax credit on the purchase of capital goods as per Section 19(2)(iv) of the TNVAT Act, 2006.

2.2. He would further submit that the authorities erroneously held that since the appellant who undertook the job work of manufacture for others, are not eligible to avail input tax credit on the purchase of capital goods since the capital goods were used for job work of others. The Appellate Tribunal failed to consider the clause(e) in sub rule (4) of Rule 10 of the TNVAT Rules, 2007, and hence, there are legal infirmities in the order of both the authorities. Hence, he seeks to allow this appeal by setting aside the order dated 17.08.2010, passed by the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai, in MTA.No.48 of 2009.

3. Per contra, Mr.R.Suresh Kumar, the learned Additional Government Pleader for the respondent would submit that first of all, to claim benefit of input tax credit, the appellant should be a dealer and also manufacturing capital goods. In this case, the appellant is neither a dealer nor manufacturing capital goods. DCL produced the final products by using the products supplied by the appellant vide the job work. The job work does not come under the purview of the Act. Even though, there is no definition for 'job work' under TNVAT Act, it was incorborated in Rule 2(n) of the Cenvat Credit Rules, 2004, which reads as follows:-

"(n) "job work" means processing or working upon of raw material or semi-furnished goods supplied tothe

job worker, so as to complete a part or whole of the process resulting in the manufacture or finishing of an article or any operation which is essential for aforesaid process and the expression "job work" shall be construed accordingly;"

3.1. In view of the above definition, the appellant is not entitled to claim the benefit of input tax credit and both the authorities considered the said fact. As per the judgment of the Hon'ble Supreme Court in ***Prestige Engineering (India) Ltd., and Others Vs. Collector of Central Excise, Meerut and Others*** *reported in* ***1994 6 SCC 465,*** the appellant's claim is not legally maintainable. Therefore, he prayed for dismissal of the appeal.

4. Heard the learned counsel for the appellant and the learned Additional Government Pleader for the respondent and perused the documents placed on record.

5. At the time of admission, the following questions of law have been framed:-

i) Whether the Appellate Tribunal is correct in holding that the purchase of goods and use of these *goods as capital goods in the manufacture of taxable goods should be doen by the same registered dealer who effects taxable sales of the manufactured goods?*

ii) Whether the Appellate Tribunal is correct in holding that it is only the registered dealers who effects the taxable sales of the manufactured goods are eligible to avail input tax credit on the purchase of goods by them which are used as capital goods by them in the manufacture of taxable goods?

iii) Whether the Appellate Tribunal is correct in holding that a plain reading of Section 19(2)(iv) of the TNVAT Act, 2006 clearly reveal that the purchase of goods and use of these goods as capital goods in the manufacture of taxable goods should be done by the same registered dealser who effects taxable sales of the manufactured goods?

6. To consider the petitioner's case, it is relevant to extract the material clause of the agreement which reads as follows:-

And whereas DCB has approached SNCCIL for getting Refractory products manufactured on a job-work basis at SNCCIL's plant at Dalmiapuram so as to widen its range of Refractory products.	That DCB shall supply the basic raw material viz., Bauxite, Clays, Magnesite, Chromite etc., and other fuel material viz., Coal, Coke and Furnace oil etc,, which may be required by SNCCIL for the manufacture of the products.

7. As per the job work agreement entered by the appellant with DCL, they only manufactured the refractory products by using the material supplied by DCL. The said components are further used in the manufacturing of final product of DCL. Thereafter, DCL would produce the final products by using the said components. Therefore, job work entrusted with the appellant by DCL can not be treated as manufactuing of capital goods in order to claim themselves as a dealer. They were only doing a job work by using the materials supplied by DCL. In the said circumstances, both the authorities correctly rejected the appellant's claim that they are not entitled to claim the benefit of the input tax credit. It is well settled principle as per Section 17 of the TNVAT Act, the burden of

proving claim of input tax credit would always lie on the dealer. In this case, in view of the above discussion, the appellant has not discharged the same. The further plea of the respondent is that manufacturing of some of the additional material by the appellant would not make any difference in the above said reasoning. The Hon'ble Supreme Court in the case of ***Prestige Engineering (India) Ltd., and Others Vs. Collector of Central Excise, Meerut and Others (Cited supra)***, has made an elaborate discussion on this aspect and the ratio laid down by the Hon'ble Supreme Court is applicable to the present case.

8. Another submission of the learned counsel for the assessee on the basis of the Clause (e) in Sub Rule (4) of Rule 10 of the TNVAT, 2007, is misconceived one for the reason that the same was incorporated in the Rule on 03.12.2008 i.e., much after the assessment made in this case.

9. In the result, all the questions of law framed by this Court were answered against the appellant/assessee and answered in favour of the respondent/Revenue.

10. In light of the abovesaid detailed discussion and the overwhelming reasons for the conclusion arrived at by the Courts in the judgment cited and discussed, the impugned order is perfectly valid in the eye of law and the present Appeal fails and the same is dismissed. The substantial questions raised are answered against the appellant/assessee and answered in favour of the respondent/Revenue. No costs.

(P.V.,J.) **(K.K.R.,J.)**
12.05.2025

NCC : Yes/No
Index:Yes/No
Internet:Yes/No

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To

The State of Tamil Nadu represented by
The Joint Commissioner (CT),
Trichy Division, Trichy.

P.VELMURUGAN
and
K.K.RAMAKRISHNAN

dss

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