BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 26.09.2025

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN
and
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Tax Case (MD).No.130 of 2012
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The State of Tamil Nadu,
Represented by
The Deputy Commissioner (C.T),
Tirunelveli Division,
Tirunelveli-627 002. .. Petitioner

Vs.

Tvl.Alagar Jewellery Mart, Tuticorin. .. Respondent

Tax Case (Revision) filed under Section 38 of the TNGST Act against the order dated 23.06.2003 passed in M.T.S.A.No.731 of 2002 on the file of the Tamil Nadu Sales Tax Appellate Tribunal (AB), Madurai.

For petitioner : Mr.J.K.Jeyaselan, Govt. Advocate

For respondent : Mr.S.Karunakar

ORDER

P.VELMURUGAN, J

This Tax Case (Revision) is filed by the State of Tamil Nadu challenging the order dated 23.06.2003 passed in M.T.S.A.No.731 of 2002 by the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai.

2. The place of business of the respondent was inspected on 14.11.1996. During inspection, serious discrepancies were found. It was noticed that purchases of gold issued to goldsmiths between July 1996 and March 1997, valued at nearly Rs.12,00,000/-, were not recorded in the accounts. Similarly, sales of jewels for more than Rs.12,00,000/- were also omitted. Apart from this, there were unaccounted purchases of old jewels weighing 159.750 grams and sales of converted ornaments weighing 147.750 grams. Further transactions involving more than 2,000 grams of gold, both on the purchase and the sales side, were not brought into the books. Stock variations also showed suppression of purchases and sales. In total, suppression of more than Rs.60 lakhs was found, and with other connected omissions, the figure came to Rs.1,22,78,056/-. An income tax raid in March 1997 revealed excess cash, excess stock of jewellery, and deficit stock of silver vessels, valued at about Rs.4,94,869/-. The total suppression was, therefore, determined at Rs.1,27,72,925/-.

3. Two private notebooks seized during inspection showed that 5,382.650 grams of old jewels were handed over to 17 goldsmiths, and only 3,951.800 grams of new jewels were returned. These transactions were not accounted for in the books. At the time of inspection, the respondent admitted the discrepancies. But, in appeal, the respondent claimed that these were only "coolie conversions," i.e., job work. Such an explanation was not given at the time of inspection, nor was it supported by any records like vouchers, receipts, or acknowledgments. The Assessing Officer, relying on the seized materials and the admission made, brought the suppressed turnover to tax and levied penalty. The Appellate Assistant Commissioner, however, deleted the additions by accepting the plea of coolie conversion, and the Tribunal confirmed the same.

4. Learned Government Advocate appearing for the petitioner contended that the dealers gave this plea only after the assessment was made based on D7 records approved during the time of inspection. This contention of the dealers is only an afterthought, and the dealers stated this only to escape liability. The Tribunal erred in accepting the dealers' contention without verifying whether the dealers were in possession of any records for the same and whether the turnover concerned was passed through accounts.

5. It is further contended by the learned Government Advocate appearing for the petitioner that the Tribunal failed to note that the dealers had not produced any evidence to prove that the entries found in the pocket notebook were only details relating to "coolie conversion," and hence, the order of the first appellate authority in deleting the turnover is not in order. The Tribunal failed to note that the assessing authority is the best judge, and the order passed by him cannot be substituted unless concrete evidence is put forth at the appeal stage. The dealers had not furnished any accounts, and merely relying on their contentions, deletion of turnover is bad in law.

6. It is further stated by the learned Government Advocate appearing for the petitioner that, inasmuch as the levy of tax is justified, the consequent levy of penalty is also warranted in this case. In any event, the order of the Tribunal in modifying the appeal filed by the State cannot be sustained in law. Hence, for the above reasons, the Court may allow this tax case.

7. The learned Government Advocate for the petitioner submitted that the Tribunal was wrong in deleting the additions, even though the dealer had admitted the discrepancies during the inspection. He argued that an admission made at the time of inspection is strong evidence, and the dealer cannot go back

on their own statement after so long. He also said that the explanation of "coolie conversion" was an afterthought and was not supported by any documents. Therefore, the Tribunal should not have interfered with the assessment.

8. The learned counsel for the respondent/dealer submitted that the assessing officer acted only on the inspection records and made additions without giving a fair chance to the dealer to explain. He contended that the dealer was only doing job work for customers and not selling any gold, so there was no sale turnover involved. He also submitted that the Tribunal has rightly appreciated that there was no independent evidence to show any actual sale, and mere entries in a private notebook cannot prove sales. He supported the order of the Tribunal and prayed for dismissal of the revision.

9. Heard the learned counsel on either side and perused the materials available on record.

10. At the time of admission of this tax case, the following substantial questions of law were formulated by this Court:

> "(i) Whether the Tribunal is proper in passing the contradictory orders for 3 (three) different assessee sister-concerns covering the 90 State Appeals summarily dismissing them which were praying to restore the orders of the assessing officer ?

(ii) Whether the Tribunal's common orders granting relief to the suppressed turnovers, are factually correct ?

(iii) When enough facts and evidences gathered at the time of shop inspection proves the findings of suppressions against the assessee and they were not able to rebut at the time of shop inspection itself, as it would have given further chance for the inspecting officers to go through the relevant facts and further enquire about their dubious claims ?

(iv) Whether the Tribunal is proper to allow the contention of the assessee when they did not file the objection with relevant records against the pre-revision notice issued by the assessing officer, even many opportunities were sought after by them and they were offered the copies of incriminating records and were given fair and reasonable chance for the second time to enable them to file the additional objection before passing the assessment orders ?

(v) Whether the Tribunal failed in its observations which prompted it to conclude that the incriminating records were not enough for the proving of the suppressions when it did not raise the question as to why the assessee had not refuted their claim previously ? and

(vi) The assessee after getting the copies of the incriminating records from the officers and then manipulated the accounts and records to suit the contents found in them in order to show that they have maintained the proper accounts and why the Tribunal had not appreciated such facts ? "

11. We have carefully considered the submissions and examined the records. The inspection on 14.11.1996 disclosed not isolated defects but large-scale suppression in purchases, sales, and stock. The private notebooks clearly revealed transactions outside the books. The respondent admitted the discrepancies at the time of inspection. An admission made in such circumstances carries great weight and cannot be lightly ignored. Once the materials seized and the admission established suppression, the burden lay on the respondent to show that these were only job work transactions. No such supporting evidence was produced. The plea of "coolie conversion," raised only at the appellate stage, is therefore unconvincing.

12. It is also relevant that during the inspection, the respondent did not produce any supporting accounts, nor did he take the plea of coolie conversion. It was only at the appellate stage that he took this plea and attempted to adjust the accounts. This shows that the accounts were not properly maintained at the relevant time and were sought to be adjusted only after the discrepancies were discovered during inspection. Such conduct strengthens the conclusion that the suppression was deliberate.

13. The Assessing Officer, who had the benefit of examining the seized records and the statement of the dealer at the time of inspection, was justified in

assessing the suppressed turnover. The Appellate Assistant Commissioner and the Tribunal accepted the explanation without insisting on corroborative proof. In the absence of any material to displace the findings of the Assessing Officer, their interference was not justified.

14. On these facts, the assessment made by the Assessing Officer was proper and supported by evidence. The deletion of turnover by the appellate authorities cannot be sustained.

15. Accordingly, the order of the Assessing Officer is restored. The orders of the Appellate Assistant Commissioner and the Tribunal are set aside. The Tax Case Revision is allowed. The substantial questions of law are answered in favour of the Revenue. There will be no order as to costs.

(P.V., J.) (K.K.R.K., J.)
26/09/2025

NCC:Yes/No
Index:Yes/No
Speaking/Non-speaking order

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To

1.The Tamil Nadu Sales Tax Appellate Tribunal (AB), Madurai.

2.The Appellate Assistant Commissioner (CT),
(FAC), Tirunelveli.

3.The Additional Deputy Commercial Tax Officer-II,
Tutiorin.

P.VELMURUGAN, J.
and
K.K.RAMAKRISHNAN, J.

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