



T.C.(MD)No.168 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22/09/2025

CORAM

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**
AND
THE HONOURABLE MR.JUSTICE **K.K.RAMAKRISHNAN**

T.C.(MD)No.168 of 2012

M/s.V.V.Vanniaperumal & Sons,
(Now known as M/s.V.V.V. & Sons Edible Oils Ltd.,)
No.443 Main Bazaar
Virudhunagar. ...Petitioner

vs.

The State of Tamil Nadu,
Rep. by the Joint Commissioner (CT),
Tirunelveli. ... Respondent

Prayer: Tax Case Revision filed under Section 38 of the TNGST Act, 1959
praying to revise the order of the Tamil Nadu Sales Tax Appellate Tribunal
(Additional Bench), Madurai in M.T.A.No.49 of 2003, dated 30.08.2011.

For Petitioner : Mr.RL.Ramani
Senior Counsel
For Mr.P.Radhakrishnan

For Respondent : Mr.R.Sursh Kumar
Additional Government Pleader



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ORDER

P.VELMURUGAN, J.

This tax case is filed challenging the order passed by the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai in M.T.A.No.49 of 2003, dated 30.08.2011.

2. The petitioner, engaged in the manufacture and sale of gingelly oil, gingelly seeds, and gingelly oil cakes, reported a total turnover of Rs. 48,46,72,931/- and taxable turnover of Rs.37,26,69,966/- for the assessment year TNGST 1996-97. During an inspection on 24.02.1997, 39 slips of paper under D7 acknowledgment, detailing business transactions, were found, along with variations in stock. Subsequently, the Assessing Authority issued a pre-assessment notice proposing additions for sales suppression and probable omissions. The petitioner explained that the entries in the slips were either already accounted for or unrelated to sales transactions. However, the explanations were rejected, and the best judgment assessment was made, adding sales suppression and omissions.

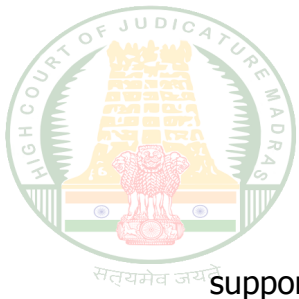


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3. Aggrieved by the assessment orders, the petitioner filed statutory appeals in Appeal No.45 of 2002 for TNGST 1996-97 and Appeal Nos.3 & 12 of 2002 for CST 1996-97 before the Appellate Assistant Commissioner (CT), Virudhunagar. During the hearing, the petitioner provided copies of the D7 slips and detailed explanations for each slip, asserting that they were accounted for in the books of accounts or unrelated to sales transactions. The Appellate Assistant Commissioner, while acknowledging that the explanations were satisfactory, remanded the case back to the Assessing Authority, directing it to furnish copies of the D7 slips to the petitioner and pass a fresh assessment order. The appeals for CST 1996-97 were also similarly remanded.

4. As against the remand orders of the appellate authority, the petitioner filed second appeals to the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai in M.T.A.No.49 of 2003 for TNGST 1996-97 and M.T.A.Nos.117 and 118 of 2003 for CST 1996-97. Initially, the second appeals in M.T.A.Nos.117 and 118 of 2003 for CST 1996-97 were taken up for hearing by the Appellate Tribunal, and in the course of such hearing, the petitioner contended that the first appellate authority, having rendered a categorical finding that the petitioner had given satisfactory explanation for the entries contained in the slips with reference to the accounts maintained, the proper course was to allow the appeal and there was no need for a remand. In



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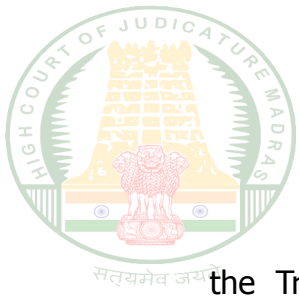
support of the said contention, the petitioner relied upon a Division Bench Judgment of the Andhra Pradesh High Court in the case of ***Kanyakaparameswari Trading Company and others v. The State of Andhra Pradesh*** reported in 54 STC 135, wherein it has been held that when the appellate Tribunal had given a clear finding that the petitioner had discharged the burden of proof in support of their claim of exemption, the appellate Tribunal ought to have allowed the appeals instead of remitting the cases back. After hearing both sides, the Appellate Tribunal, by order dated 06.11.2008, allowed the second appeals in M.T.A.Nos.117 & 118 of 2003. Subsequently, the second appeal in M.T.A.No.49 of 2003, filed in relation to TNGST 1996-97, was taken up for hearing by the Appellate Tribunal. At the time of hearing, the petitioner, apart from reiterating the contentions raised in the CST appeal and placing reliance on the Division Bench Judgment of the Andhra Pradesh High Court reported in 54 STC 135, also relied upon the earlier order of the same Appellate Tribunal in the case of the petitioner for the same assessment year under the CST Act. However, by order dated 30.08.2011, the Appellate Tribunal dismissed the second appeal filed by the petitioner, thereby sustaining the remand order passed by the first appellate authority. Challenging the order passed in Appeal No.49 of 2003 for GST for the year 1996-97, the petitioner is before this Court.



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5. Mr.RL. Ramani, learned Senior Counsel appearing for the petitioner submits that the appellate authority, although it had categorically found that the petitioner had provided a very satisfactory explanation regarding the entries in the slips with reference to the accounts maintained by the petitioner, proceeded to remand the assessment back to the assessing authority. This remand was ordered on the grounds that the assessing authority had failed to provide the petitioner with copies of the D7 records and had not considered the valid objections raised by the petitioner, thus making a unilateral decision that violated the principles of natural justice. The appellate authority's conclusion was mechanically upheld by the Appellate Tribunal. However, both the first appellate authority and the Appellate Tribunal failed to take note of the fact that the petitioner had never raised the issue of a violation of the principles of natural justice in the first place. In fact, both before the assessing authority and the first appellate authority, the petitioner had explained the entries in each and every slip with reference to the books of accounts maintained. While the assessing authority rejected these explanations, the first appellate authority accepted them as very satisfactory. Therefore, there was no basis for remanding the matter on the grounds of a violation of natural justice, especially since the petitioner had never raised such an issue before the first appellate authority. It is further submitted that



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the Tribunal has grossly erred by failing to refer to the Division Bench judgment of the Andhra Pradesh High Court reported in ***Kanyakaparameswari Trading Company and Others Vs. The State of Andhra Pradesh*** reported in ***54 STC 135*** , as well as the earlier order of the Appellate Tribunal rendered in the case of the petitioner for the same assessment year under the CST Act.

6. Mr.R.Suresh Kumar, learned Additional Government Pleader appearing for the respondent would submit that the Assessing Officer, on inspection and proper scrutiny of records, passed the best judgment assessment. However, the appellate authority remanded the matter, holding that the assessing authority, without considering the explanations of the petitioner and without giving a copy of the D7 records, had taken a unilateral decision, which is in violation of natural justice, and directed the petitioner to produce subsidiary documentary evidence before the assessing authority for scrutiny. Challenging the same, the petitioner filed the petition, which was also confirmed by the Tribunal. Hence, the learned Additional Government Advocate prays for the dismissal of the Tax Case.



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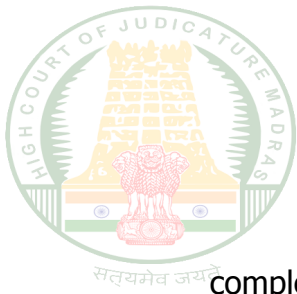
7. Heard the learned counsel on either side and perused the materials available on record.

8. The tax case was admitted on the following substantial questions of law:-

"(i) Whether the Appellate Tribunal was right in justifying the remand order of the first appellate authority by deliberately ignoring the Division Bench Judgment of the Andhra Pradesh High Court reported in 54 STC 135 wherein it was laid down that when the burden of proof on the claim of exemption has been amply discharged, the appeal ought to have been allowed instead of the same being remitting back to the assessing authority for giving further opportunity to prove the claim of exemption?

2) Whether the Appellate Tribunal was right in ignoring the earlier order of the same Appellate Tribunal in the case of the petitioner for the same assessment year wherein similar remand order of the first appellate authority was set aside and the second appeal is allowed?

9. The brief facts necessary to decide these questions are that, during inspection of the petitioner's business premises on 24.02.1997, 39 slips of paper, acknowledged as D7 records, were recovered, apart from variations in stock. The Assessing Officer, treating the same as evidence of suppression,



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completed the best judgment assessment. The assessee preferred appeals before the Appellate Assistant Commissioner, who, after considering detailed explanations given in respect of each of the slips with reference to the books of accounts, recorded a categorical finding that the explanations were “very satisfactory”. Yet, instead of allowing the appeals, the appellate authority remanded the matter to the assessing officer on the ground that copies of the D7 slips were not furnished and that there was violation of natural justice.

10. The assessee carried the matter in second appeals before the Tribunal. In so far as the CST assessments for the same year were concerned, in M.T.A.Nos.117 & 118 of 2003, the Tribunal, by order dated 06.11.2008, accepted the assessee’s contention that once satisfactory explanations had been given, there was no basis for remand. Relying upon the judgment of the Andhra Pradesh High Court in 54 STC 135, the Tribunal set aside the remand and allowed the appeals. That order has become final since the Revenue did not prefer any further challenge. However, when it came to the appeal relating to TNGST for the very same year in M.T.A.No.49 of 2003, the Tribunal, by its order dated 30.08.2011, dismissed the appeal and sustained the remand order.



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11. The contradiction is apparent. The Tribunal, while dealing with the CST appeals of the same assessee for the same year, applied the principle that once the explanations are found satisfactory, remand is unwarranted. Yet, in the TNGST appeal, despite the same set of facts and the same assessment year, the Tribunal chose to uphold the remand. Such inconsistency in approach offends judicial discipline and results in grave prejudice to the assessee.

12. On the first substantial question of law, the law is well settled by the decision of the Andhra Pradesh High Court in ***Kanyakaparameswari Trading Company v. State of Andhra Pradesh*** (54 STC 135), that when the burden of proof is satisfactorily discharged and the appellate authority records such a finding, the matter ought to be concluded by allowing the appeal and not remitted back to the assessing authority. The Appellate Assistant Commissioner, in the present case, recorded a clear finding that the explanations offered by the assessee were very satisfactory. Having done so, the authority had no jurisdiction to remand. The Tribunal, by sustaining such a remand, ignored the binding principle laid down in the above judgment. This question is, therefore, answered in favour of the assessee.



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13. On the second substantial question of law, it is significant that the Tribunal itself, in the case of the very same assessee for the very same assessment year under the CST Act in M.T.A.Nos.117 & 118 of 2003, set aside the remand and allowed the appeals. That order remains unchallenged by the Revenue. In such circumstances, the Tribunal could not have taken a diametrically opposite view in the appeal under the TNGST Act, viz., M.T.A.No. 49 of 2003. The procedure for assessment and the principle governing remand are the same under both enactments. Hence, the Tribunal's action in sustaining the remand in the TNGST appeal while setting aside the remand in the CST appeal is contradictory, arbitrary, and erroneous in law. This substantial question also stands answered in favour of the assessee.

14. For the foregoing reasons, the Tax Case Appeal is allowed. The order of the Tribunal dated 30.08.2011 in M.T.A.No.49 of 2003 is set aside. The remand ordered by the Appellate Assistant Commissioner is quashed, and the appeal filed by the assessee is allowed. No costs.

(P.V., J.) (K.K.R.K., J.)
22/09/2025

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

- 1.The Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench),
Madurai.
- 2.The Appellate Assistant Commissioner (CT),
Virudhunagar.
- 3.The Deputy Commercial Tax Officer-I,
Virudhunagar.



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