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)Nos.226 to 229 of 2012

Tvl.Seyad Shariat Finance Limited,
4-G, II Floor, Salai Street,
Sindupoondurai,
Tirunelveli - 627 001. ...Petitioner

vs.

The State of Tamil Nadu,
Rep. by the Assistant Commissioner
(CT) (FAC),
Tirunelveli Junction,
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 Common Order in M.T.M.P.Nos.73/09, 74/09, 75/09 & 76/2009, dated 30.06.2011.

For Petitioner in
all Tax Cases : Mr.N.Prasad
For M/s.Vishnu Priya.

For Respondent in
all Tax Cases : Mr.J.K.Jeyaselan
Government Advocate

COMMON ORDER

P.VELMURUGAN, J.

These Tax Case Revisions are filed under Section 38 of the Tamil Nadu General Sales Tax Act, 1959 (in short, 'TNGST Act'), challenging the order dated 30.06.2011 passed by the Tamil Nadu Sales Tax Appellate Tribunal, Additional Bench, Madurai. By the said order, the Tribunal disposed of the miscellaneous petitions filed by the petitioner in M.T.M.P.Nos.73 to 76 of 2009, without rendering any finding on the maintainability of the second appeals, yet proceeded to pass an order on merits.

2. The petitioner is a public limited company registered under the Companies Act, 1956, and is a non-banking financial institution engaged in the business of providing financial leases. Upon receipt of requests from customers, the petitioner approaches dealers of two-wheelers, cars, tractors, and other motor vehicles. The dealers raise invoices in the name of the petitioner. However, on the very date of the invoice, the asset is delivered directly to the customer. Thereafter, the petitioner enters into lease agreements with the customers. These agreements are in the nature of financial leases, whereby the right to use the asset is transferred to the customer for a specified period.

3. For the assessment years 2002-03, 2003-04, 2004-05, and 2005-06, assessments under Section 12 of the TNGST Act were completed, and no resale tax was levied. Subsequently, the assessments were reopened under Section 16 of the Act. Upon scrutiny of the records, the assessing authority levied resale tax under Section 3-H of the TNGST Act, which came into effect on 01.07.2002. It was held that, although the agreements and delivery of goods had taken place prior to 01.07.2002, the lease rentals collected after 01.07.2002 constituted “deemed sales” under the newly inserted Section 3-H and were thus liable to tax at 1%. The petitioner’s claim that transactions under agreements executed prior to 01.07.2002 should not attract tax under Section 3-H was rejected. However, the assessing authority concluded that the taxable event, namely the continuous receipt of lease rentals after 01.07.2002, attracted the newly introduced resale tax provision.

4. Aggrieved by the said orders, the petitioner filed first appeals under Section 31 of the Act before the Appellate Assistant Commissioner(CT), Tirunelveli. The petitioner contended that since both the execution of the lease agreements and the delivery of the goods had occurred prior to 01.07.2002, the taxable event had occurred before the introduction of Section 3-H, and hence the transaction could not be subjected to tax under the said

provision. It was further contended that the nature of the transaction was that of a financial lease, where the effective transfer of ownership occurred at the inception of the agreement.

5. The Appellate Authority, however, held that the fact that the lease agreements were executed prior to 01.07.2002 did not mean that the taxable event was completed before the said date. It was observed that the continuous collection of lease rentals even after 01.07.2002 constituted a "sale" for the purposes of Section 3-H. The Appellate Authority further opined that the lease agreements did not indicate any intention for the return of the goods, and hence, the transactions were in substance similar to sales, thereby attracting liability to resale tax under Section 3-H of the Act. The imposition of resale tax under Section 3-H was therefore upheld. However, the issue was remanded for verification of records with respect to the interest component of the lease rentals, to determine how such interest had been treated in the books of accounts.

6. Aggrieved by the said order, the petitioner filed second appeals before the Sales Tax Appellate Tribunal. The Registry of the Tribunal returned the appeals on the ground of maintainability in view of the bar under the

second proviso to Section 36 of the Act. The petitioner re-presented the matter along with miscellaneous petitions and the appeals were posted specifically for hearing on the question of maintainability.

7. The matters were heard on multiple dates exclusively on the issue of maintainability, and the petitioner filed written submissions. However, the appeals were never formally numbered or taken on file. On 30.06.2011, the Tribunal passed the impugned orders disposing of the miscellaneous petitions and, in effect, dismissed the appeals, while rendering observations on the merits and directing the Assessing Authority to verify the books of accounts for the interest component.

8. Challenging the order passed by the Tribunal, the petitioner has approached this Court by way of these Tax Case Revisions.

9. The learned counsel for the petitioner submitted that the Tribunal committed a jurisdictional error in disposing of the appeals on merits without first deciding the question of maintainability and without affording an opportunity to the petitioner to argue on the merits. It was further submitted that the Tribunal failed to consider the specific ground that Section 3-H could

not apply to transactions concluded prior to 01.07.2002, and that the impugned order does not refer to or address any of the legal issues raised in the appeal memorandum.

10. Per contra, the learned counsel for the respondent supported the levy of resale tax and submitted that the lease agreements in question amounted to resale by way of deemed sale, and that the petitioner could not avoid the liability under Section 3-H merely by executing agreements prior to 01.07.2002. It was further submitted that the Tribunal was justified in directing verification of interest components in the accounts.

11. We heard the learned counsel on either side and perused the materials placed on record.

12. The tax case revisions were admitted on the following substantial questions of law:-

> *"(i) Whether the Sales Tax Appellate Tribunal has committed an error of law in disposing the appeal filed by the petitioner on merits when in fact, the appeal was posted only on the question of maintainability on 30.06.2011?*
>
> *(ii) Whether the Sales Tax Appellate Tribunal was*

committed an error of law in disposing of the appeal without a notice or opportunity to the petitioners when in fact the petitioner had submitted only on the maintainability of the appeal? and

(iii) Whether the Sales Tax Appellate Tribunal has committed an error of law in falling to note that in cases where the taxable event of the transfer of right to use and delivery of goods had been completed prior to 01.07.2002, the question of invoking Section 3-H of the Tamil Nadu General Sales Tax Act, 1959, did not arise at all since the taxable had been completed prior to the introduction of the levy?"

13. From the materials available on record, it is evident that the miscellaneous petitions were posted specifically for deciding whether the second appeals were maintainable in view of the bar under the second proviso to Section 36 of the TNGST Act. However, instead of adjudicating that preliminary issue, the Tribunal, by the impugned order dated 30.06.2011, proceeded to dispose of the matters by issuing directions to the Assessing Officer and making observations on the merits of the case. The Tribunal did not render any finding as to whether the second appeals were maintainable. There was no reasoned discussion regarding the applicability of the bar under the second proviso to Section 36 of the TNGST Act. Furthermore, the impugned orders were passed only in the miscellaneous petitions, without

formally entertaining the main appeals. In such circumstances, the Tribunal had no jurisdiction to enter upon the merits of the case or issue directions, as the question of maintainability had not been adjudicated.

14. A perusal of the impugned orders further reveals that the Tribunal merely recorded in a single line that the appeals were not maintainable, yet proceeded to consider and dispose of the matter on merits, without addressing or deciding the core issue of maintainability. It is a well settled legal principle that the question of maintainability must be determined at the threshold, and only upon recording a finding of maintainability and admitting the appeals can the Tribunal proceed to adjudicate the matter on merits, after affording both parties a full and fair opportunity to present their respective cases.

15. The impugned orders, which contain findings on the merits without first deciding the issue of maintainability, are in violation of the principles of natural justice and the procedural scheme contemplated under the Act. Accordingly, substantial questions of law Nos.1 and 2 are answered in favour of the petitioner and against the respondent.

16. Insofar as the third substantial question of law raised by the petitioner pertains to the very taxability of the transaction, it is noted that the applicability of Section 3-H to agreements and deliveries completed prior to 01.07.2002 involves questions of legal interpretation. Such issues ought to be addressed only upon proper admission of the appeals and after a full hearing on merits. It would, therefore, be wholly inappropriate to record any findings on this issue at a stage when even the question of maintainability has not yet been determined.

17. In view of the above, this Court is of the considered view that the order dated 30.06.2011 passed by the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai, in M.T.M.P. Nos. 73 to 76 of 2009, is liable to be set aside. Accordingly, the impugned common order is set aside, and the matters are remitted to the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai. The Tribunal shall first hear and decide the question of maintainability of the second appeals in accordance with law. If the appeals are found to be maintainable, they shall be taken on file, and the Tribunal shall thereafter issue notice to both parties, hear them on the merits, and dispose of the appeals by a reasoned order.

18. It is made clear that this Court has not expressed any opinion on the merits of the case. All questions, including the legal issue regarding the applicability of Section 3-H to transactions that took place prior to 01.07.2002, are left open to be decided by the Tribunal, if and when the appeals are admitted.

19. The Tax Case Revisions are allowed on the above terms. There shall be no order as to 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 Assistant Commissioner
(CT) (FAC),
Tirunelveli Junction,
Tirunelveli.

2.The Appellate Deputy Commissioner (CT),
Tirunelveli.

3.The Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench),
Madurai.

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

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