



W.A.(MD)No.1601 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.04.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

**W.A.(MD)No.1601 of 2021
and
C.M.P.(MD)No.6819 of 2021**

Madhucon Projects Limited,
Represented by G.V.L.N.Sastry,
Manager (F & A),
No.216, NH 45 Madurai Tuticorin Road,
Senthilkkarai, Ettayapuram,
Tuticorin District - 628 902.

... Appellant

Vs.

State Tax Officer,
Ettayapuram,
Tuticorin District - 628 902.

... Respondent

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order dated 09-04-2021 passed in W.P.(MD)No.15162 of 2020 on the file of this Court.

For Appellant : Mr.Joseph Prabakar

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



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JUDGMENT

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Heard both sides.

2.The appellant challenges the order dated 15.03.2018 issued by the respondent. By the said order, the appellant's total and taxable turn over had been redetermined under Section 27(1) of TNVAT Act, 2006 for the year 2014 – 2015. The tax dues payable by the appellant was redetermined and penalty was also levied. Challenging the same, the appellant filed W.P.(MD)No.15162 of 2021. The learned Single Judge vide order dated 09.04.2021 dismissed the writ petition on the ground that the appellant can very well avail the alternative appeal remedy. Questioning the said dismissal order, this writ appeal has been filed.

3.Before us, the learned counsel for the appellant pointed out that the order impugned in the writ petition will have to be set aside on the sole ground of utter non-application of mind on the part of the assessing officer. He drew our attention to paragraph No.1 of the impugned order dated 15.03.2018. It reads as follows:-



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“(1) On verification of the 9th Annual report relating to the year 2014 – 2015, it was found that the dealer shown under head 2.16 operating and maintenance expenses as follows for the year 2014 – 15.

Particulars	Total Value	Exemption allowed @ 30% as labour charges	70% treated as taxable turnover as transfer of property involved	Tax due @ 5%
Carriage way maintenance	71287076	21386123	49900953	2495048
Periodic maintenance	580575000	174172500	406402500	20320125
Toll Plaza Maintenance	3075835	922751	2153085	107654
Repairs and maintenance	3248199	174460	2273739	113687
Other income	3122181	---	---	156109
Total	661308291	197455833	460730277	23192623

4.It has been convincingly demonstrated that the said table has been lifted from the annual report of Madurai – Tuticorin Expressways Limited for the very same year. The appellant before us is Madhucon Projects Limited. It is a different legal entity from Madurai – Tuticorin Expressways Limited.

5.The learned Additional Government Pleader would urge that both are sister concerns and that there is a close connection between the



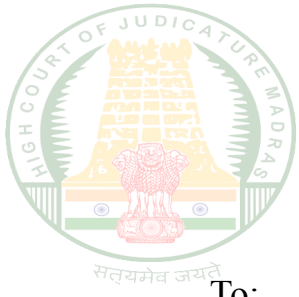
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two transactions. That may be so. But even in the impugned proceedings proceed on the premise as if the figures found in the annual statement of Madurai – Tuticorin Expressways Limited are that of the appellant herein. On this sole ground of non-application of mind, the order impugned in this writ appeal is set aside and the writ appeal is allowed. The matter is remitted to the file of the respondent. Liberty is given to the respondent to issue fresh notice to the appellant. The learned counsel for the appellant on instructions from the appellant gives an undertaking that they would not plead the limitation as a defence. The learned Additional Government Pleader states that the respondent will issue such a revised notice within a period of six weeks from the date of receipt of a copy of this judgment. We make it clear that all the contentions of both the parties are left open. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.) & (M.J.R. J.)
16.04.2025

NCC : Yes/No
Index : Yes / No
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State Tax Officer,
Ettayapuram,
Tuticorin District - 628 902.



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