BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2025

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

Writ Petition(MD)No.17099 of 2018
and W.M.P(MD).No.15053 of 2018

M/s.Dhanalakshmi Timbers,
No.1/506, Tenkasi-Shenkottai Road,
Piranoor Border, Shenkottai,
Tirunelveli District 627 809
rep., by its Partner
G.Shenbagaraman ..Petitioner

Vs

The Revenue Thasildar,
Shenkottai, Tirunelveli District. ..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for records relating to the proceedings of respondent in Na.Ka.E5/24404/2018- Na.Ka.A9/10944/2011 published in Tirunelveli District Gazette dated 18.07.2018 and the notices dated 16.02.2018, 23.04.2018 and 26.07.2018 all in Na.Ka.A9/10944/2011 seeking to recover a sum of Rs.25,31,770/- and quash the same.

For Petitioner : Mr.N.Dilipkumar
For Respondent : Mrs.D.Farjana Ghoushia
Special Government Pleader

ORDER

The writ petition has been filed seeking the following relief:

> "to issue a Writ of Certiorari, to call for records relating to the proceedings of respondent in Na.Ka.E5/24404/2018-Na.Ka.A9/10944/2011 published in Tirunelveli District Gazette dated 18.07.2018 and the notices dated 16.02.2018, 23.04.2018 and 26.07.2018 all in Na.Ka.A9/10944/2011 seeking to recover a sum of Rs.25,31,770/- and quash the same."

2. It is the case of the petitioner that they are firm engaged in the trading of timber and an assessee under KGST Act 1963 on the rolls of the Commercial Tax Officer, Punalur. During the years 2002-2003 and 2003-2004, the petitioner firm had sold timber to the third party dealers against concessional rate of tax on the basis of Form 18 declarations obtained from the said dealers. However, assessment orders were issued on 30.01.2010 for the years 2002-2003 and 2003-2004 by treating the declarations in Form 18 as bogus and thereby demanding differential tax from the petitioner. The petitioner had challenged the said orders by filing an appeal before the tribunal. However, they were not in a position to comply with the precondition of depositing the entire tax liability, which includes the disputed one. Therefore, the appeals were returned as defective.

3. Meanwhile, the petitioner obtained a letter issued by the Commercial Tax Officer, Irinjalakuda, dated 17.12.2013 and a copy of ledger account of M/s.Akhil Furniture dated 23.03.2005, to the effect that the Form 18 declarations issued by Akhil Furniture to the tune of Rs.56,24,191/- were genuine. The petitioner has challenged these proceedings by filing a writ petition before Kerala High Court.

4. By an order dated 18.10.2011, the respondent had issued a notice calling upon the petitioner to pay a sum of Rs.25,31,770/- to KGST, in default the revenue recovery proceedings would be initiated. The petitioner had immediately addressed the respondent challenging his authority to issue such a notice and also seeking certain particulars. Despite the reply, the respondent has issued proceedings dated 19.12.2011, which is signed on 22.12.2011, stating that attachment proceedings would be initiated in the event of petitioner fails to pay a sum of Rs.25,31,770/- to KGST.

5. Challenging the same, the petitioner has filed in W.P(MD).No.15260 of 2011 before this Court and an order of interim stay was granted and the writ petition was ultimately allowed on 18.12.2023. The petitioner would submit that the respondent had initially issued notice dated 02.01.2018 proposing to

take action under the Revenue Recovery Act and thereafter, had issued Form No.4 under Section 25 of the Revenue Recovery Act on 31.01.2018 threatening to take coercive action. Thereafter, on 16.02.2018 yet another notice under Section 27 in Form No.5 was issued threatening to bring the property for public auction, in case demand is not paid on or before 05.03.2018. Later, the respondent has issued the impugned order on 18.07.2018 and 26.07.2018, against which, the present writ petition has been filed.

6. The ground on which the petitioner has challenged the said notice is the impugned proceedings are vitiated by lack of jurisdiction and on account of a non-application of mind on the part of the respondent. They are illegal and arbitrary. The Tamil Nadu Revenue Recovery Act, 1864, does not have any provision enabling the Tahsildar to recover the outstanding dues of another State. Further, the Revenue Recovery Act cannot be invoked to recover the outstanding arrears of Kerala State Commercial Tax Department. It was argued that the respondent is not the competent authority to initiate impugned proceedings under the Central Revenue Recovery Act. Therefore, the petitioner requests that this writ petition be allowed.

7. Heard the learned counsel on either side.

8. The main challenge to the proceedings is that the respondent has invoked the provision of the Tamil Nadu Revenue Recovery Act to settle the amount due under the Kerala Act. Since the revenue recovery proceedings had been initiated for recovering the amounts dues towards KGST, the invocation of the provision of the Tamil nadu Revenue Recovery Act is *per se* wrong. The respondent ought to have initiated proceedings under the Central Act, that apart it is informed that the amounts due have been paid under the amnesty scheme. From perusal of the papers it is clear that though the title of the notice is Central Act, the Form numbers and Section used in the impugned proceedings clearly indicates that it has been initiated under the Tamilnadu Revenue Recovery Act. Therefore, the impugned proceedings is without jurisdiction and hence, it is set aside. Accordingly, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

09.09.2025

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

To
The Revenue Thasildar,
Shenkottai, Tirunelveli District.

P.T.ASHA, J.

Rmk

Writ Petition(MD)No.17099 of 2018

09.09.2025