BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : /09/2025

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

T.C.(MD)No.5 of 2017

M/s.Standard Press (India) (Pvt) Ltd.,
34-G, Poothaiyammal Nagar,
Near Y.R.T.V.School, Sivakasi,
Virudhunagar District. ...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 dated 05.10.2016 in M.T.S.A.No.241 of 2009 insofar as the levy of tax on the sale of exempted goods of children educational book and printed car manual books under Section 3-G of the TNGST Act in the assessment year 2004-2005.

For Petitioner : Mr.D.Ganesan

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

ORDER

P.VELMURUGAN, J.

This Tax Case Revision has been filed by the assessee challenging the order of the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai, dated 05.10.2016, in M.T.S.A. No. 241 of 2009, insofar as it pertains to the levy of tax on the sale of exempted goods children's educational books and printed car manual books under Section 3-G of the TNGST Act for the assessment year 2004-2005.

2. The petitioner is a registered dealer engaged in printing works. Initially, they were assessed to tax on a total turnover of Rs.10,53,38,396/- and a taxable turnover of Rs.2,33,45,285/- for the assessment year 2004-2005 under Section 12-C of the TNGST Act. However, the Assessing Officer reopened the assessment under Section 16 of the TNGST Act, disallowing the claim of exemption on the sale of children's educational books amounting to Rs.31,33,821/- and on the sale of printed manuals classified as consumables, supplied to M/s.Hyundai Motors, amounting to Rs.47,26,257/-, as per the Government Notification in G.O.Ms.No.16 CT & RE, dated 12.01.1998. The Assessing Officer also levied 1% tax under Section 3(4) of the TNGST Act on the pre-export and direct export sales effected by the

petitioner.

3. Aggrieved by the order of the Assessing Officer, the petitioner filed an appeal before the Appellate Authority/Deputy Commissioner (CT), Virudhunagar. The Appellate Authority, in Appeal No.4 of 2009, modified the order of the Assessing Officer. It held that a close reading of Section 3-G of the TNGST Act indicates that the levy of tax is applicable notwithstanding anything contained in sub-section (2) of Section 3 or Section 3-B only. Since the goods in question are classified under the Third Schedule of the TNGST Act, exemption is available under Section 8 of the Act. The provisions of the Act constitute a complete scheme, of which Section 8 is an integral part; therefore, exemption cannot be denied by levying tax under Section 3-G of the TNGST Act. This position was supported by the principles laid down by the Rajasthan Taxation Tribunal in the case of ***Olympic Cinema v. State of Rajasthan & Others*** *(115 STC 212)* and in ***Tilakraj Mediratta*** *(86 STC 453)*. Accordingly, the Appellate Authority modified the order of the Assessing Officer.

4. Challenging the order of the Appellate Authority, the Revenue filed a further appeal before the Tribunal. However, the petitioner’s authorized representative could not appear before the Tribunal on the date of the hearing

due to illness. As a result, the appeal was dismissed ex parte.

5. Aggrieved by the Tribunal's order, the petitioner has filed the present revision petition before this Court.

6. The learned counsel for the petitioner submits that the impugned order was passed ex parte by the Tribunal without granting the petitioner sufficient opportunity to present their case, which is a violation of the principles of natural justice. He further contends that the Tribunal ought to have considered that the petitioner's claim for exemption could not be denied merely on the ground that the printer opted for payment of compounded tax on the total turnover of printed materials under Section 3-G of the Act, as this is contrary to the spirit of the scheme. The learned counsel further argues that the Tribunal failed to consider that when exempted goods are not liable to tax under the statute, such turnover falls outside the purview of Section 3-G of the TNGST Act. He submits that the respondent has no power to overlook the exemption provided under Section 8 of the Act as per Entry 50 of the Third Schedule and as per Notification G.O.Ms.No. 16, dated 12.01.1998, concerning the sale of children's educational books and car manual booklets supplied to Hyundai Motor India Ltd. under Section 17 of the TNGST Act. The

learned counsel contends that the Tribunal should have acknowledged that the Act and its provisions constitute a complete scheme, of which Sections 8 and 17 are integral parts. Once an exemption is granted under the statute, it cannot be denied. Hence, the learned counsel prays to set aside the order of the Tribunal and confirm the findings of the Appellate Authority.

7. The learned counsel for the Revenue supports the order of the Tribunal, contending that once the petitioner opted for payment of compounded tax under Section 3-G of the TNGST Act, all sales, including those of exempted goods, fall within its ambit. He argues that the exemption under Section 8 of the Act cannot override the specific provision of Section 3-G, which governs compounded tax payments. Therefore, the denial of exemption by the Assessing Officer and the Tribunal's decision to dismiss the appeal are legally justified.

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

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

" 1. The Hon'ble Tribunal ought to have considered and held that the claim of exemption by the petitioner in question could not be denied only on the ground of the printer opting for payment of compounded tax on the total turnover in printing materials under Section 3G of the Act which is against the spirit of system of scheme?

2. The Hon'ble Tribunal ought to have considered that when exempted goods are not liable to be taxed as per the statute, such turnover is outside the purview of Section 3G of the TNGST Act"

10. It is evident from the record that the Tribunal passed the impugned order dated 05.10.2016 ex parte, in the absence of the petitioner's authorized representative, who could not appear on the date of hearing due to illness. The matter was, therefore, disposed of against the petitioner. The denial of an opportunity to be heard under these circumstances constitutes a clear violation of the principles of natural justice. The petitioner now seeks an opportunity before this Court to have the matter heard. Considering the request, this Court deems it appropriate to grant the petitioner such an opportunity, which they may utilize to place all relevant facts, materials, and submissions before the Tribunal. Accordingly, the matter is remitted back to the Tribunal, which shall, after giving an opportunity of hearing to the petitioner as well as the Revenue, thereafter consider the matter on merits

and in accordance with law.

11. Considering the long pendency of the matter, which originated in M.T.S.A.No.241 of 2009, and the fact that the case has been under consideration of this Court since 2017, the Tribunal shall dispose of the matter within three months from the date of hearing, strictly taking into account the opportunity now afforded to the petitioner, without expressing any opinion on the merits of the case.

12. The impugned order of the Tribunal is set aside to the extent indicated above. The substantial questions of law are left open. The Tax Case Revision petition is allowed accordingly. No order as to costs.

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

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

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To

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

2.The Joint Commissioner (CT),
Tirunelveli.

3.The Commercial Tax Officer-III,
Sivakasi.

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

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