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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2026

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No. 33656 of 2005

Voltas Limited
No.52- Armenian Street,
Chennai 600 001. .. Petitioner

vs

1.The State of Tamil Nadu,
Represented by the Secretary to Government,
Department of Commercial Taxes and Religious Endowments,
Fort St- George,
Chennai - 600 009-

2.The Assistant Commissioner (CT),
Fast Track Assessment Circle - II,
Chennai
.. Respondents

Prayer : This Petition came to be numbered by transfer of O.P.No.212 of 2003 from the file of the Tamil Nadu Taxation Special Tribunal, Chennai under Section 7 of Act 42/92 of TNGST Act, 1959 after abolition of the Tribunal in 2004 praying this Court to declare Explanation (v) to Section 2(1)(aa) of the Tamil Nadu Additional Sales Tax Act, 1970, inserted by

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Tamil Nadu Additional Sales Tax (Amendment) Act, 2002 (Act No.23/2002) as ultra vires Articles 14, 245, 246, 265, 269 and 286, Entry 92-A of List-I to the Seventh Schedule, Entry 54 of List-II to the Seventh Schedule to the Constitution of India, 1950 and hence ab initio void.

For Petitioner : Mr.Parthasarathy

For Respondent : Mr.V.Prasanth Kiran
Government Advocate

ORDER

(Made by Dr. ANITA SUMANTH, J.)

The prayer in this writ petition is for a declaration challenging explanation to Section 21(1)(aa) of the Tamil Nadu Additional Sales Tax Act (Amendment) Act, 2002 (Act 23/2002).

2. Both Mr.Parthasarathy appearing for the petitioner and Mr.Prasanth Kiran, learned Government Advocate, appearing for the Department draw attention to an order passed in W.A.(MD) No. 174 of 2013 on 29.09.2016 that considered the identical issue and decided the same in favour of the assessee. The operative portion reads as follows:-

13. In the case on hand, in the form of Explanation, in order to get over the effect of the judgment in ***South India Corporation Ltd. v. Commercial Tax Officer, Coimbatore*** *and others reported*

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*in **124 STC 654**, the scope of Charging Sections has been expanded. The learned Single Judge has considered the scope of Charging Sections, viz., amended Section 2(1)(aa) of the Act, and by placing reliance on the judgment of the Honourable Supreme Court in **S.Sundaram v. V.R.Pattabhiraman** reported in **AIR 1985 SC 582** and also the opinion of the learned Authors, has held that it is contrary to the provisions of the Act.*

14. It is a settled position of law that the Explanation normally should be read so as to harmonise with and clear up any ambiguity in the main section and it should not be so construed as to widen the ambit of the section and also to clarify the doubtful point in law and to serve as a proviso to main section.

*15. In **S.Sundaram v. V.R.Pattabhiraman** reported in **AIR 1985 SC 582**, the following objects of an Explanation to a statutory provision have been culled out and it is relevant to extract the same as under:*

"(a) to explain the meaning and intendment of the Act itself;
(b) where there is any obscurity or vagueness in the main enactment, to clarify the same so as to make it consistent with the dominant object which it seems to subserve;
(c) to provide an additional support to the dominant object of the Act in order to make it meaningful and purposeful;
(d) an Explanation cannot in any way interfere with or change the enactment or any part thereof but where some gap is left which is relevant for the purpose of the Explanation, in order to suppress the mischief and advance the object of the Act it can help or assist the Court in interpreting the true purport and intendment of the enactment, and
(e) it cannot, however, take away a statutory right with which any person under a statute has been clothed or set at naught the working of an Act by becoming an hindrance in the interpretation of the same."

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16. Section 7-C of the TNGST Act, is extracted hereunder:

"7-C. Payment of tax at compounded rates by works contractor.- (1) Notwithstanding anything contained in Section 3-B, every dealer referred to in item (vi) of clause (g) of Section 2, may, at his option, instead of paying tax in accordance with Section 3-B, pay, either on the total value of each works contract or on the total value of all works contracts, executed by him in a year, tax calculated at the following rate, namely:-
(i) Civil works contract. : Two per cent of the total contract value of the civil works executed;"

*17. The dealer need to pay tax based on his taxable turnover determined after allowing various deductions admissible under law and without amending the said provision, merely the Explanation V is added to get over the effect of the judgment in **South India Corporation Ltd. v. Commercial Tax Officer, Coimbatore and others** reported in **124 STC 654**.*

*18. In the light of the judgment of the Honourable Supreme Court in **S.Sundaram v. V.R.Pattabhiraman** reported in **AIR 1985 SC 582**, this Court is of the considered view that the impugned Explanation sought to widen the scope of taxable turnover as defined under Section 2(p) of the TNGST Act and the learned Judge in the impugned order has taken into consideration the well settled position of law and held that the impugned Explanation is contrary to the provisions of the Act and allowed the writ petition.*

*19. In paragraph 19 of the judgment in **South India Corporation Ltd. v. Commercial Tax Officer, Coimbatore and others** reported in **124 STC 654**, the Division Bench of this Court also*

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held that the claim for additional sales tax by treating the contract value as the taxable turnover is not permissible under the provisions of either the TNGST Act or the Additional Sales Tax Act. The said judgment has also reached finality as no further challenge has been made and therefore, on that ground also, the impugned Explanation is to be declared as ultra vires and it was rightly declared so in the impugned order passed in the writ petition.

20. This Court upon scrutiny and consideration of the relevant materials and in the light of the above judgment is the considered opinion that there is no error apparent or infirmity in the reasons assigned in the impugned order in allowing the writ petition and finds no merit in the writ appeal.

21. Therefore, this writ appeal is dismissed and the order passed in W.P(MD)No.1831 of 2007, dated 27.09.2011, is confirmed. No costs."

3. In light of the aforesaid, this writ petition is allowed. No costs.

[A.S.M, J.] [M.S.K, J.]
20.02.2026

Index:Yes/No
Neutral Citation:Yes/No
ssm

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