



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 09.03.2026

Pronounced on: 18.03.2026

CORAM

**THE HONOURABLE DR JUSTICE G.JAYACHANDRAN
AND
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL**

T.C.No.7 of 2026

ITC Limited,
No.2277 T.H.Road,
Thiruvotriyur,
Chennai – 600 019.

... Petitioner/Appellant

Vs.

The State of Tamil Nadu
Represented by The Deputy Commissioner (ST-I)
Large Taxpayers Unit,
Chennai – 600 008.

... Respondent/Respondent

Prayer:

Tax Case has been filed under Section 60(i) of the Tamil Nadu Value Added Tax Act, 2006, to revise the order of the Sales Tax Appellate Tribunal (Main Bench), Chennai – 104, dated 20.02.2025 in T.A.No.129/2019.

For Appellant: Mr.N.Sri Prakash

For Respondent: Mr.Haja Nazirudeen AAG,
Assisted by Mr.C.Harsharaj
Special Government Pleader (Taxes)



J U D G M E N T

Dr.G.Jayachandran, J.

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The Tax Case is filed by the dealer registered under the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956.

2. The petitioner is a large taxpayer engaged in the business of paper boards and speciality papers. During the assessment period 2016–2017, the petitioner regularly filed its monthly returns under the Tamil Nadu Value Added Tax Act as well as the Central Sales Tax Act. The petitioner has claimed deduction from the turnover in respect of discounts extended to its customers through credit notes. After such deduction, the petitioner paid tax at the rate of 2% on the taxable turnover. The Assessing Authority rejected the claim of deduction in respect of the total turnover of Rs.8,47,14,699/- on the ground of absence of sufficient documentary evidence.

3. Aggrieved by the assessment order, the petitioner filed a First Appeal before the Joint Commissioner (ST) (Appeals) in A.P.No.20 of 2018, questioning the assessment order on the ground that the Assessing Officer had erroneously disallowed the claim of deduction towards discount of Rs.6,62,97,715/- out of the total sum of Rs.8,47,14,699/-.



4. The First Appellate Authority, vide order dated 21.06.2019, partly allowed and partly dismissed the appeal. The Appellate Authority, after framing five issues, received Form 'C' declaration for the total turnover of Rs.21,33,34,712/- and accepted the inability of the dealer/appellant to collect Form 'C', Form 'F' and Form 'H' declarations for the remaining value of Rs.9,13,77,110/- taxable at the rate of 5% and Rs.1,65,105/- taxable at the rate of 14.5%. Accordingly, the tax is imposed for non-production of Form-C declarations was confirmed.

5. However, in respect of turnover of Rs.21,33,34,712/-, for which Form 'C' declarations were produced, the matter was remanded to the Assessing Authority for making fresh disposal after verification of the correctness of the Form. In respect of tax imposed for non-production of Form - 'H' and Form - 'F' declarations, the appeal was dismissed to that extent. However, insofar as the production of Form - 'F' to turn over of Rs.1,16,93,397/- is concerned, the matter was remanded back to the Assessing Authority for making fresh disposal after verification of correctness of the Form to be produced. With regard to the claim of exemption towards free samples to customers, the Assessing Authority disallowed the claim. However, the Appellate Authority accepting the documents produced by the assessee during the appeal to the extent of Rs.1,97,432/- and remanded the matter back to the Assessing Authority to verify



the document and pass orders. In respect of the issue regarding the sale returns, for non-filing of documents to the tune of Rs.60,09,835/- and Rs.70,69,406/-, the matter was also remanded back to the Assessing Authority to verify the documents and pass orders.

6. Aggrieved by the order of the partly remand and partly dismissal, the Assessee preferred appeal before the Tamil Nadu Sales Tax Appellate Tribunal, Chennai, in T.A.No.129 of 2019. The Appellate Tribunal heard the appeal and passed order on 20.02.2025.

7. The petitioner/dealer should be given an opportunity to produce declaration Forms and connected documents for the claim of concessional rate of tax/exemption from tax before the Assessing Authority. The Assessing Officer shall consider the original 'C' Form for Rs.1,50,500/- and balance declaration Forms, if any, of the dealer and thereafter pass appropriate orders on merits, in accordance with law. Considering all aspects, the appeal in respect of 'C' Forms produced for Rs.1,50,500/- is remanded back to the Assessing Officer and the appeal related to the non-submission of balance 'C', 'F' and 'H' Forms are dismissed.



8. Being aggrieved by the said order, the present appeal is filed on the ground that there is inconsistency in the findings of the Tribunal. It is contended that, after observing that the First Appellate Authority has not considered the discount offered to the customers to tune of Rs.5,92,40,690/-, the Tribunal ought not to have dismissed the appeal except in respect of the Form 'C' produced for Rs.1,50,500/-. It is further contended that the Sales Tax Appellate Tribunal erred in holding that, if any, error crept in the assessment order, the dealer ought to have filed rectification petition.

9. The Learned Counsel appearing for the petitioner submitted that the dispute relating to the credit notes issued towards discount for a sum of Rs.5,92,28,309/-, which was assessed at the rate of 2% by the order of the assessment dated 31.01.2018, has not been properly appreciated by the First Appellate Authority and the Tribunal.

10. The Learned Counsel further contended that the Learned Tribunal has erroneously found that the above sum was not assessed. Therefore, restricting the claim to the said amount, viz., Rs.5,92,28,309/-, which was assessed at the rate of 2% by the order of assessment dated 31.01.2018, the present Tax Case Revision is filed with a prayer to set aside the order of the Tribunal and to remand the matter to the Assessing Authority to redo the assessment.



11. The Learned Counsel for the appellant would strenuously argue that the discount given to the customers through credit notes is entitled for deduction under Section 2(h) of the Central Sales Tax Act. The Assessing Authority as well as the Appellate Authority had failed to grant sufficient time for furnishing Form 'C' declarations, Form 'F' declarations and Form 'H' declarations.

12. The tentative question of law sought to be framed is whether the Tribunal erred in holding that the appeal not maintainable and not deciding the dispute on merits in respect of deduction claimed on the discount amount of Rs.5,92,28,309/-, which was assessed at the rate of 2%.

13. It is a case of rejection of claim of deduction made by the Assessee/dealer. Admittedly, the assessee has not furnished necessary Forms in support of the claim of deduction. Perusal of the assessment order indicates that, for the assessment year 2016-2017, the assessee reported the total turnover of Rs.39,94,46,80,330/- and taxable turnover of Rs.4,04,93,69,774/- as per the monthly returns filed in Form 1 under the Central Sales Tax Act, 1956. Against the "C" Form declarations taxable at the rate of 2%, a total turnover of Rs.4,03,82,75,835/- was reported. The assessee has claimed exemptions from the taxable turnover as follows:



Transfer of goods to the assessee's place of business in other States	Rs.31,43,78,00,629.00
Sales of exempted commodities & Sales to SEZ Units in other States	Rs.2,35,58,49,548.00
Sale of goods in the course of export outside India & sale of goods for export to exporters	Rs.2,10,16,60,379.00
Total turnover reported	Rs.39,94,46,80,330.00

14. The contention of the Department is that the assessee has failed to produce the 'C' Forms for the sale to the registered dealers as per the declarations. No documentary proof produced in respect of sales returns or stock transfer, exempted Sales, sales to SEZ Units in other States. The Sale of goods in the course of export outside India and sales of goods to exporters, were not duly supported by required Forms. Hence, turnover to the extent of Rs.2,10,16,60,379/- was proposed to be assessed at 14.5% and after rejecting the exempted turnover claimed without the necessary Forms 'C', 'F' and 'H', the taxable turnover for the assessment year 2016-2017 was assessed at Rs.39,94,46,80,330.00 under Central Sale Tax Act.

15. During the personal hearing, the assessee has produced consolidated Form 'WW' and details for credit notes. However, the assessee did not file details for the difference in turnover reported in the monthly returns and as per audit. Despite granting sufficient time and opportunity for the production of declaration forms, required copies of the documents and details of sale outside



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16. In the appeal, few 'C' Forms were produced, but not with supporting documents. Likewise, only few declaration forms H and F were produced before the Appellate Authority for consideration. After considering the additional documents produced, the Appellate Authority has partly remanded the matter to the Assessing Authority for fresh consideration and partly dismissed to the extent that no material for reconsideration.

17. Before the Tribunal, it was canvassed by the Assessee that the failure to produce necessary 'C' Forms, 'H' Forms and 'F' Forms was due to failure of the dealers with whom the assessee had contractual relationship. As per the terms of contract, the dealers are supposed to submit the required Forms but have failed to produce. Hence, the assessee has sought to remand the matter back to the Assessing Authority for fresh assessment. The Tribunal has considered the grounds of appeal and has held as below:

“The dealer claimed concessional rate on inter-state sales under the Central Sales Tax Act, 1956. In support of the claim, the assessee had not even filed declaration 'C', 'H' and 'F' Forms. The claim of the assessee was sought to be rejected by the Assessing Officer



on the ground that the assessee had not submitted required Forms and declarations. Thus, if the dealer who claims concessional rate under CST Act must satisfy the required conditions incorporated of Section and Rule. Without complying with the said requirement, a dealer cannot claim concessional rate. For non-compliance, the local tax will be levied. It is the case of the dealer that they have been prevented from furnishing supportive documents/Form Declarations due to sufficient and reasonable cause until date. If really, the said Forms and declarations are available, the dealer should have produced before the Assessing Officer or First Appellate Authority or at least before this Tribunal. Without possessing those Forms and declarations, it has been falsely alleged that they have not been provided with an opportunity to produce those materials, which are beyond their control. The assessment is of the year 2016-2017. We are in 2024. Still, the said materials are not collected by the dealer. No explanation has been given for not producing those Forms in 2024 also.

Having taken a stand in this appeal that the dealer has been prevented from submitting necessary Forms and declaration, no steps have been taken to collect those forms prescribed under Rule 12(7) of Central Sales Tax (Registration & Turnover) Rules, 1957 reveals thus: “The declaration in Forms shall be furnished to the prescribed authority within three months after the end of the period to which the declaration or the certificate relates”. In the



absence of any material to substantiate its claim that the dealer cannot claim the concessional rate on inter-state sale under the C.S.T. Act, 1956. The dealer has produced only C-Forms for Rs.1,50,500/-. In the absence of balance declaration Forms to claim of concessional rate, we have no hesitation in confirming order of the First Appellate Authority. Considering all aspects, this Tribunal is of the view that the order of the Assessing Officer, which was confirmed by the First Appellate Authority, requires no interference, which are cogent, clear and proper and as such, this appeal is liable to be dismissed in respect of non-submission of balance declaration Forms.”

18. The entitlement of exemption from the Tax is subject to production of Forms ‘C’, ‘F’ and ‘H’ and the other declarations contemplated under the Act.

19. The assessee, having failed to produce the necessary documents at the first instance i.e., before the Assessing Authority had been producing documents in piecemeal, partly before the Appellate Authority and partly before the Tribunal by way of typed sets of papers.

20. In paragraph 13 of the impugned order of the Tribunal, the cavalier manner in which the assessee been conducting the case has been clearly explained. For better appreciation, the relevant portion is extracted below:



“13. Admittedly, the appellant had filed a typed set paper related to the credit note received for the impugned turnover (Typed Set Book Page No. 14 to 36). The credit notes claim for various aspects i.e., short shipment, dealer incentive, cash discount, quality, special discount and offline special discount. The appellant also filed the sample invoice ledger page and credit note. The appellant argued that how the credit note was accounted for in the books of accounts and in provisional balance sheet and profit & loss account. The sole ground for rejection in the first appeal that the appellant was not produced the documentary evidences for the credit notes. Now, the dealer had produced the detailed list of credit notes related to the impugned turnover before this Tribunal. Thus, the First Appellate authority order is required interference and the order is set aside, the matter is remanded to the Assessing Authority for redo the assessment in respect of impugned turnover related to the credit notes. The appellant should produce the relevant documents before the Assessing Authority to prove their contention related to the impugned turnover.”

21. The Learned Counsel appearing for the petitioner/Assessee submitted that the Tribunal has failed to appreciate the judgments cited. However, on perusing the impugned order, we find that the judgment relied by the revision petitioner, particularly the ***State of Tamil Nadu v. Arul Murugan and Company*** reported in ***(1982) 51 STC 381(MAD)***, pertains only in respect of raising

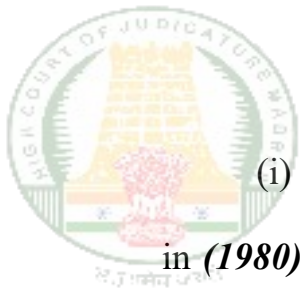


additional grounds and not in respect of filing of documents in a piecemeal at stage by stage. The authorities can decide the tax dispute only based on the evidence adduced by the assessee. The revision petitioner herein cannot take its own time to file documents at every stage of the dispute to improve its case. As far as tax case revision before the High Court, the findings of the Tribunal on facts cannot interfered unless there is substantial question of law arises for decision.

22. In this context, it is appropriate to refer the judgment of the Hon'ble Supreme Court in *Mohinder Singh Gill and another vs. Chief Election Commissioner, New Delhi and others*, reported in *AIR 1978 SC 851*, wherein the Apex Court held as follows:

“8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out...”

23. The Learned Counsel for the appellant circulated the following two judgments for consideration:



(i) ***The State of Tamil Nadu vs. Ultramarine and Pigments Ltd*** reported in ***(1980) 46 STC 220***, wherein Section 2(h) of the Central Sale Tax Act, 1956 been considered for granting deduction on cash discount. The Division Bench of this Court, while considering the question whether the allowance of discount forms an integral part of the contract to be qualified for deduction under Section 2(h) of the Central Sales Tax Act, 1956, followed the decision in the ***State of Tamil Nadu vs. Poly-ene General Industries*** reported in ***[1977] 39 STC 254*** held as below:

“In State of Tamil Nadu v. Poly-ene General Industries ([1977] 39 S.T.C. 254), the assessee, manufacturers of polythene tabular film, bags, etc., entered into a contract with a manufacturer of tobacco. The polythene liners were to be used by the tobacco manufacturers for the purpose of packing tobacco. A refund of 50 paise per liner used for packing was given on receipt of import licence for raw materials against order. The assessee's claim for deduction of the amount of 50 paise per liner from its turnover under Section 2(h) of the Central Sales Tax Act was negated by the assessing authority and the appellate authority., but was upheld by the Tribunal on the ground that though the amount was not cash discount, the price to that extent had been reduced and that the said amount did not form part of the price at all. It was held on revision by this Court that under the Central Sales Tax Act, cash discount alone is allowable as deduction and that it could be given either



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simultaneously with the preparation of the sale bill or subsequently and that the motive for granting such a discount is immaterial. The present case would appear to fall within the principles of this decision as, in this case, even taking the amount as a discount it was adjusted subsequently against the price.”

(ii) The other judgment cited by the Learned Counsel for the petitioner is ***Deputy Commissioner of Sales Tax (Law) Board of Revenue (Taxes), Ernakulam vs. M/s.Advani Oorlikon (P) Ltd***, reported in ***(1980) 1 SCC 360***. In the said case, the Hon’ble Supreme Court had distinguished the phrase ‘Trade discount’ and ‘Cash discount’ while applying Section 2(h) and 2(j) of the Central Sales Tax Act, 1956. The Hon’ble Supreme Court, after considering the matter carefully held as below:-

“5. At the outset, it is appropriate that we set forth the two relevant definitions contained in the Central Sales Tax Act. Section 2(j) defines “turnover” to mean “the aggregate of the sale prices received and receivable by him (the dealer) in respect of sales of any goods in the course of inter-State trade or commerce....”. And Section 2(h) of the Act defines the expression “sale price” to mean “the amount payable to a dealer as consideration for the sale of any goods, less any sum allowed as cash discount according to the practice normally prevailing in the trade...”. It is true that a deduction on account of cash discount is alone specifically contemplated from the sale



consideration in the definition of “sale price” by Section 2(h), and there is no doubt that cash discount cannot be confused with trade discount. The two concepts are wholly distinct and separate. Cash discount is allowed when the purchaser makes payment promptly or within the period of credit allowed. It is a discount granted in consideration of expeditious payment. A trade discount is a deduction from the catalogue price of goods allowed by wholesalers to retailers engaged in the trade. The allowance enables the retailer to sell the goods at the catalogue price and yet make a reasonable margin of profit after taking into account his business expense. The outward invoice sent by a wholesale dealer to a retailer shows the catalogue price and against that a deduction of the trade discount is shown. The net amount is the sale price, and it is that net amount which is entered in the books of the respective parties as the amount realisable. Orient Paper Mills Ltd. v. State of Orissa [(1975) 35 STC 84: 1974 Tax LR 2224 (Ori HC)]

6. Under the Central Sales Tax Act, the sale price which enters into the computation of the turnover is the consideration for which the goods are sold by the assessee. In a case where trade discount is allowed on the catalogue price, the sale price is the amount determined after deducting the trade discount. The trade discount does not enter into the composition of the sale price, but exists apart from and outside it and prior to it. It is immaterial that the definition of “sale price” in Section 2(h) of the Act



does not expressly provide for the deduction of trade discount from the sale price. Indeed, having regard to the circumstance that the sale price is arrived at after deducting the trade discount, no question arises of deducting from the sale price any sum by way of trade discount.”

24. In the case in hand, we find that the assessee has failed to produce the necessary documents to substantiate the claim of deduction before the Assessing Authority. The assessee has expressly admitted its inability to collect and submit Forms ‘C’, ‘F’ and ‘H’. In the absence of material evidence to prove the entitlement of tax deduction and the alleged discount is a “trade discount” on the catalogue price and not an “incentive” in the nature of “cash discount”, the plea of the petitioner/assessee has to fail.

25. This Court finds that no substantial question of law arises for consideration in the present case. Accordingly, the Tax Cases is dismissed. There shall be no order as to costs.

(Dr. G.JAYACHANDRAN, J.) & (R.SAKTHIVEL, J.)
18-03-2026

Neutral Citation :Yes.
Index :Yes/No.
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To,

1. The Deputy Commissioner (ST-I),
The State of Tamil Nadu
Large Taxpayers Unit,
Chennai – 600 008.

2. The Sales Tax Appellate Tribunal (Main Bench),
Chennai – 104.



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Dr.G.JAYACHANDRAN, J.
AND
R.SAKTHIVEL, J.
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Pre-delivery Judgment made in
T.C.No.7 of 2026

18.03.2026