IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-03-2026

CORAM

THE HON'BLE DR JUSTICE G. JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE R.SAKTHIVEL

Tax Case Nos.12 to 14 of 2011

M/s Vinbros & Co
No.4A, Subbiah Salai,
Puducherry.

..Petitioner

Vs

1. The Appellate Assistant Commissioner (CT),
   Commercial Taxes Department,
   Puducherry.

2. The Commercial Tax Officer (IAC)
   Commercial Taxes Department,
   Puducherry.

..Respondents

COMMON PRAYER: Tax Case (Revision) Petitions are filed under Section 42 of the PGST Act, 1961, to revise the order of the Appellate Tribunal at Puducherry, dated 04.01.2011 in Tax Appeal Nos.1 to 3 of 2007.

In all Cases

For Petitioner: Mr.G.Baskar

For Respondents: Mr.V.Vasanthakumar
Additional Government Pleader (Puducherry)

COMMON ORDER

(Order of the Court was made by Dr.G.Jayachandran J.)

The petitioner is a manufacturer of Indian Made Foreign Liquor (IMFL) in the Union Territory of Puducherry. In G.O.Ms.No.6/74/Finance (CT) dated

01.04.1974 issued by the Finance Department. The Government, in exercise of powers conferred by Section 3 of the Pondicherry General Sales Tax Act, 1967, had exempted the tax payable on the turnover of sales of goods manufactured by certain industries registered with the Government of Pondicherry. The petitioner industry is a beneficiary under this G.O.

2. The said Government Order was subsequently withdrawn and modified by G.O.Ms.No.35/99/F2 dated 30.03.1999, wherein industries manufacturing IMFL which had already invested in the necessary infrastructure and had not yet availed any benefit of tax exemption, were allowed to claim the general exemption. The said notification stipulated that such exemption would only apply to IMFL with a basic price of not less than Rs.600/- per case. This amended notification came into effect from 01.04.1999.

3. The petitioner herein commenced production in its second unit on 01.10.1999, having invested in the necessary infrastructure prior to the issuance of the Government Order cited above. While filing its returns for the assessment year 1999-00, 2000-01 and 2001-02, the petitioner claimed tax exemption of Sales Tax and the Turnover Tax.

4. However, this claim was rejected by the Assessing Officer as well as the Appellate Authority on the ground that the exemption from general tax is in respect of Section 3, which is the primary charging section of the Act. Section 4 is in respect of tax on sale of goods. Whereas, the levy of Turnover Tax under Section 4-A is an independent charge, distinct from Section 4. Therefore, the exemption of Sales Tax granted through the G.O., does not apply to Turnover Tax. The claim for exemption from payment of 0.5% Turnover Tax was declined by the Tribunal as well. Hence, the present revision petition.

5. The learned counsel appearing for the revision petitioner submitted that Section 4-A(i) of the Pondicherry General Tax Act, came into force on 01.04.1992, whereas Notification G.O.Ms.No.15/74/Fin(CT) dated 25.06.1974, which was subsequently withdrawn by G.O.Ms.No.35/99/F2 dated 30.03.1999, specifically grants exemption to IMFL industries that had commenced installation prior to the G.O., and had not availed any tax concession so far. Therefore, the Tribunal's decision declining exemption from Tax to the petitioner, which was conferred under G.O.No.15/74 and amended from time to time in respect of Turnover Tax for the assessment year 1999-00, 2000-01 and 2001-02, is erroneous and contrary to the spirit of the provision.

6. Further, G.O.Ms.15/74 grants exemption from payment of tax on the turnover from the sale of goods manufactured by such industries, therefore, tax on turnover cannot be levied invoking Section 4-A. Since the exemption G.O., is in universal positive terms regarding all Tax payable under the said

Act, there can be no subsequent levy of Turnover Tax on the sale of goods. Furthermore, when the revision petitioner satisfies the condition contemplated under the subsequent notifications, namely G.O.Ms.35/99/F2 and G.O.Ms.No.36/2000/F2, the denial of exemption is unsustainable.

7. The learned Additional Government Pleader (Puducherry) submitted that Section 4-A is a charging Section for levy of Turnover Tax, operating independently of Section 3, which speaks about levy of tax on sales or purchases. He further submitted that the exemption granted through the G.O., confines only to the tax on the sale of goods manufactured by the industries falling within the category of exemption. The said G.O., does not include the Turnover Tax. He further submitted that the liability imposed on the revision petitioner is a tax on turnover under Section 4-A and not a tax on the sale of manufactured goods under Section 3 and Section 4.

8. The issue before us has already been considered and decided by the Division Bench of this Court in ***Kader H.A Vs. Union of India*** reported in ***[2013] 30 taxmann.com 498 (Madras)***, wherein the Division Bench of this Court held as below:-

> *"16.Section 4A starts with a non obstante clause that notwithstanding anything contained in the Act or the Rules made thereunder, every dealer under the Act has to pay Turnover Tax at the rate of three per cent on the total turnover. The Section contains a proviso to exclude inter-State sale, sale in the course*

of export outside the territory of India or import into the territory of India, freight charges separately specified and turnover not includible in the total turnover. As already seen, "total turnover", as defined under Section 2(r), means the aggregate turnover of a dealer in all goods,i.e., the amount for which goods are bought or sold, as given under the definition of "turnover"under Section 2(s). In contrast to Section 3, the charging section, which levies general sales tax on the taxable turnover, levy of Turnover Tax is on the total turnover of the dealer as computed in accordance with the definition of "total turnover" under the Act. Thus going by the said definition, irrespective of the liability of pay general sales tax, the chargeability under the provisions of section 4A arises on the entire total turnover irrespective of whether the turnover is liable to tax at all or not, under the general sales tax levy, i.e., every turnover which is comprised in the total turnover other than those specifically excluded falls for consideration under Section 4A of the Pondicherry General Sales Tax Act."

9. In view of the above judgment, we are of the view that the Tax Case (Revision) Petitions filed by the assessee has to fail. Accordingly, the Tax Case (Revision) Petitions stand dismissed. No costs.

(G.J.,J.) (R.S.V.,J.)
23-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
rpl

To

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DR.G.JAYACHANDRAN J.
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