IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-06-2026

CORAM

THE HON'BLE DR JUSTICE G. JAYACHANDRAN

AND

THE HON'BLE MRS. JUSTICE N. MALA

TC No. 30 of 2015

The State of Tamil Nadu
Rep by the Joint Commissioner (CT),
Chennai (North) Division,
Chennai.

..Petitioner(s)

Vs

Tvl.M.P.Natarajan and Company
No.284, Mint Street,
Chennai 600 003.

..Respondent(s)

Tax Case filed under Section 38 of the Tamil Nadu General Sales Tax Act, 1959, to revise the order of the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Chennai, dated 13.09.2010 passed in S.T.A.No.258 of 2005.

For Petitioner(s): Ms.G.Dhana Madhri
Government Advocate (Taxes)

For Respondent(s): Respondent – Steps not taken

ORDER

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

An Appeal by the State being aggrieved by the concurrent findings of the Appellate Authority as well as the Tribunal, wherein, the assessment order being reversed in respect of the alleged wrong return converting interstate purchases into second sales to avoid tax.

2.The contention of the Department is that, for the Assessment Year 2001-02, the wrong accounting in respect of interstate purchases under second sales came to light during the inspection conducted by the Enforcement Wing between 17.06.2003 and 20.06.2003 and therefore, tax with penalty was levied on the assessee under Section 16(2) to the tune of Rs.35,98,171/-. Being aggrieved, the assessee preferred an Appeal before the Assistant Commissioner (CT). The Appellate Authority, considering the judgment of the Madras High Court in ***Tvl.Apollo Saline Pharmaceuticals Pvt. Ltv. v. Commercial Tax Officer*** reported in ***2001 SCC OnLine Mad 1205,*** regarding imposition of penalty, held that the penalty levied by the Assessing Officer disallowing the claim of exemption stands deleted. The said finding of the Appellate Authority was confirmed by the State Appellate Tribunal by order dated 13.09.2010 in S.T.A.No.258 of 2005. The Tribunal has positively held that there is no evasion of tax or manipulation of first sale as second sale to claim exemption with intention. The assessee has submitted the revised return and Assessing Officer has accepted the total turnover reported.

3.At the time of admitting this Appeal by the State, this Court has framed the following substantial question of law for consideration :

> *"Whether the Tribunal was justified in upholding the order of the Appellate Assistant Commissioner deleting the penalty imposed under Section 16(2) of the Tamil Nadu General Sales Tax Act ?"*

4.The Appellate Authority has relied upon the judgment rendered by the Division Bench of the Madras High Court in ***Tvl.Apollo Saline Pharmaceuticals Pvt. Ltd. v. Commercial Tax Officer*** reported in ***2001 SCC OnLine Mad 1205,*** wherein, it has been observed that, when the entire turnover being disclosed but part of it not been regarded as taxable turnover by reason of *bona fide* belief that the assessee has entertained, then levy of penalty is wholly unwarranted. In this case, the Appellate Authority and the Tribunal, which are fact finding forum, had held that the assessee has not suppressed the turnover with any *mala fide* intention to attract penalty.

5.In such circumstances, we find the deletion of penalty imposed on the assessee is justifiable. Hence, the Appeal by the State stands dismissed. No costs.

(G.J.,J.) **(N.M.,J.)**
17-06-2026

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

MKN

To

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

2.The Joint Commissioner (CT),
Chennai (North) Division,
Chennai.

DR.G.JAYACHANDRAN J.
AND
N.MALA J.

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