IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-03-2026

CORAM

THE HON'BLE DR. JUSTICE G. JAYACHANDRAN

AND

THE HON'BLE MR.JUSTICE SHAMIM AHMED

Tax Case (Revision) No. 35 of 2015

The State of Tamil Nadu,
Rep by
The Joint Commissioner (CT),
Large Taxpayers Unit,
No.34 (123) Durgar Towers, 5th Floors,
Marshal Road, Egmore,
Chennai – 600 008.

..Petitioner(s)

Vs

Tvl.Ashok Leyland Limited,
No.480, Annasalai,
Chennai.

..Respondent(s)

Prayer: Tax Case (Revision) is filed under Section 38 of Tamil Nadu General Sales Tax Act, 1959 praying to revise the order of the Tamil Nadu Sales Tax Appellate Tribunal (Main Bench), Chennai, dated 11.04.2014 passed in STA No.123 of 2006.

For Petitioner(s):	Mr.V.Prasanth Kiran Government Advocate (Taxes)
For Respondent(s):	Mr.N.Prasad

ORDER

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

This Tax Case (Revision) is filed to revise the order of the Tamil Nadu Sales Tax Appellate Tribunal (Main Bench), Chennai dated 11.04.2014 passed in STA No.123 of 2006.

2. The respondent dealer is an assessee falling within the jurisdiction of the Deputy Commissioner (CT)-III, Large Taxpayers Unit, Chennai. For the Assessment Year 1993-1994, under the TNGST, 1959, the respondent was originally assessed to tax vide order dated 31.03.2001, and the turnover was assessed as Rs.1,51,76,000/- being sales of REP licenses to the Reserve Bank of India. Tax at the rate of 4% on the said turnover was imposed by the Assessing Authority, and penalty was also levied for non-reporting of the sale turnover. The same was challenged by the assessee before the Appellate Authority, namely, the Deputy Commissioner (CT), Chennai, in A.P.No.62 of 2001. Meanwhile, the Assessing Officer suo motu revised the rate of tax on the turnover from 4% to 8% on the ground that Reserve Bank of India, which purchased the REP licenses is not a Government Department. Therefore, against the enhanced rate of tax, the assessee has preferred another appeal before the Appellate Authority. The Appellate Authority had an opportunity to consider the validity of imposing turnover tax on the premium paid by the assessee for

the REP licenses, and confirmed the enhancement of tax to 8%. However, it restricted the turnover to Rs.22,58,840/- from Rs.1,51,76,000/- by holding that only the premium income received on the sale of REP licenses is alone liable to be taxed as turnover. The penalty levied was also deleted, holding that there was no wilful non-disclosure of the turnover. Being aggrieved further, the assessee preferred an appeal before the Tribunal challenging the rate of tax whereas the Department filed an appeal challenging the deletion of penalty and restriction of turnover. By a common order dated 11.04.2014, the Tribunal confirmed the order of the Appellate Authority by dismissing both the appeals.

3. Today, it is brought to our notice that a further revision filed by the State against the common order passed in STA No.122 of 2006 was dismissed by the co-ordinate Bench of this Court on 05.06.2015 in Tax Case (Revision) No.36 of 2015. The present Tax Case (Revision) No.35 of 2015 filed against the STA No.123 of 2006 is taken up for consideration today. This appeal is in respect of restriction of turnover tax to an extent of Rs.22,58,840/-.

4. Heard the learned Counsel on either side and perused the materials available on record.

5. We find that the assessee had surrendered REP licenses to the Reserve Bank of India and disclosed a turnover of Rs.1,51,76,000/-. However, the premium gained by the assessee by way of surrender of REP licenses to the Reserve Bank of India was only Rs.22,58,840/-. Therefore, the Appellate Authority as well as the Tribunal held that the aggregate value in so far as the surrender of REP licenses can only be Rs.22,58,840/- and not Rs.1,51,76,000/- as claimed by the Department. This finding of fact by the two Authorities is neither perverse nor unlawful. Therefore, we find no question of law worth in this case. However, at the time of admission, this Court framed two question of law which reads as below:

"i) Whether the Tribunal is correct in holding that the income received by way of premium on sale of REP lincenses alone is taxable as 'turnover' as against the aggregate amount for which the said goods were sold as per the definition of the term 'turnover' as laid down in Section 2(r) of the TNGST Act, 1959?

ii) Whether the Tribunal is correct in overlooking the specific orders of the Hon'ble High Court in the decision reported in ***M/s.P.S.Apparels vs. Deputy Commercial Tax Officer, T.Nagar (East) Assessment Circle – [1994] 94 STC 139 MAD*** *in relation to levy of penalty for the assessment years beyond 1992-93 under Section 12(3)(b) of the TNGST Act, 1959?"*

6. The learned Counsel appearing for the appellant relied on the Judgment of the Hon'ble Supreme Court of India in ***Commercial Tax Officer and Others vs. State Bank of India and another*** reported in ***(2016) 10 SCC 595*** wherein the Hon'ble Supreme Court examining the taxability of transfer of title or ownership in respect of REP licenses will tantamount to sale of goods to fall within the ambit of turnover tax has held as follows:

> *"38. Thus analysed, the replenishment licences or Exim scrips would, therefore, be "goods", and when they are transferred or assigned by the holder/owner to a third person for consideration, they would attract sales tax. However, the position would be different when replenishment licences or Exim scrips are returned to the grantor or the sovereign authority for cancellation or extinction. In this process, as and when the goods are presented, the replenishment license or Exim scrip is cancelled and ceases to be a marketable instrument. It becomes a scrap of paper without any innate market value. SBI, when it took the said instruments as an agent of RBI did not hold or purchase any goods. It was merely acting as per the directions of RBI, as its agent and as a participant in the process of cancellation, to ensure that the replenishment licences or Exim scrips were no longer transferred. The intent and purpose was not to purchase goods in the form of replenishment licences or Exim scrips, but to nullify them. The said purpose and objective is the admitted position. The object was to mop up and remove the replenishment licences or Exim scrips from the market.*
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> *39. Be it noted that the initial issue or grant of scrips is not treated as transfer of title or ownership in the goods. Therefore, as a natural corollary, it must follow when RBI acquires and seeks the return of replenishment licenses or Exim scrips with the intention to cancel and destroy them, the replenishment licences or Exim scrips would not be treated as marketable commodity purchased by the grantor. Further, SBI is an agent of RBI, the principal. The Exim scrips or replenishment*

licences were not "goods" which were purchased by them. The intent and purpose was not to purchase the replenishment licences because the scheme was to extinguish the right granted by issue of replenishment licences. The "ownership" in the goods was never transferred or assigned to SBI."

7. In view of the above judgment, the transaction, namely surrender of REP licenses to the Reserve Bank of India, cannot be construed as sale of goods so as to attract turnover tax.

8. Accordingly, this Tax Case Revision stands dismissed. No costs.

(G.J.,J.) **(S.S.A.,J.)**
25-03-2026

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

VEDA

To
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AND
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