# IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-06-2026

CORAM

**THE HONOURABLE DR JUSTICE G. JAYACHANDRAN**
**AND**
**THE HONOURABLE MRS.JUSTICE N. MALA**

T.C.No.67 of 2017

The State Of Tamil Nadu,
Rep. By the Joint Commissioner (CT),
Chennai (East) Division,
Chennai – 600 006. … Petitioner

Vs.

Tvl.Royal Trading Centre,
No.185 Pycrafts Road,
Chennai-14. … Respondent

**Prayer:** Tax Case has been filed under Section 38 of the TNGST, Act, 1959, to revise the order of the Tamil Nadu Sales Tax Appellate Tribunal (Main Bench), Chennai, dated 10.12.2012 and passed order in S.T.A.No.117/2010.

For Petitioner: Mrs.G.Dhana Madhiri
Government Advocate (Tax)

For Respondent: Mr. B.Raveendran

## ORDER

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

The Tax Case has been filed by the State, being aggrieved by the order of the Tribunal dismissing the appeal on the ground of limitation, without considering the grounds of appeal and without assigning proper reasons for rejecting the appeal preferred by the State.

**2.** The Learned Counsel appearing for the Department submitted that, on noticing escaped assessment, the order-in-original dated 24.12.2003 was revised pursuant to revision notice issued on 07.09.2007. After receiving the reply, the department issued second pre-revision notice on 25.03.2008 and the final order based on the revised assessment was issued on 16.04.2008.

**3.** Being aggrieved, the assessee approached the Appellate Authority, contending that the assessment order, based on the escaped assessment and revised subsequently, is barred by limitation in the light of Section 16(1)(a) of the TNGST Act. The Appellate Authority, taking into account the said submission, allowed the appeal filed by the assessee, reckoning the limitation from 06.05.2003 (the date of issuance of the pre-assessment notice) to 16.04.2008 (the date of revised assessment order).

**4.** When the matter was taken up for further appeal by the Department before the Tamil Nadu Sales Tax Appellate Tribunal, the Tribunal confirmed the order of the Appellate Authority, reiterating that the five-year limitation period under Section 16(1)(a) of TNGST Act has to be reckoned from the end of the assessment year (i.e) the subject matter of revision which means the order-in-original passed on 24.12.2003, which relates to the assessment year 2001–2002. On verification of the records, the Department is aggrieved, since the Appellate

Authority as well as the Tribunal has not properly reckoned the limitation and arrived at erroneous conclusion.

**5.** The specific contention of the Department is that the order-in-original dated 24.12.2003 was passed in respect of the assessment year 2001–2002. At the end of the year, the order-in-original was passed, the limitation has to be reckoned from 31.03.2004. Since the revision notice pursuant to scrutiny of the escaped assessment was issued on 07.09.2007 and the revised assessment order was passed on 16.04.2008, are well within the five-year limitation prescribed under Section 16(1)(a) of TNGST Act.

**6.** For easy reference, it is profitable to extract Section 16(1)(a) of the TNGST Act, both prior to the amendment dated 01.07.2002 and subsequent to the amendment dated 01.07.2002. Hence, the provision is extracted below:

> ***Section 16(1) of TNGST Act prior to amendment dated 01.07.2002.***
>
> *Section 16. Assessment of escaped turnover. - (1) (a) Where, for any reason, the whole or any part of the turnover of business of a dealer has escaped assessment to tax, the assessing authority may, subject to the provisions of sub-section (2), at any time within a period of five years from the "expiry of the year to which the tax relates"*

*determine to the best of its judgement the turnover which has escaped assessment and assess the tax payable on such turnover after making such enquiry as it may consider necessary and after giving the dealer a reasonable opportunity to show cause against such assessment.*

***Section 16(1) of TNGST Act after the amendment dated 01.07.2002.***

*Section 16. Assessment of escaped turnover. (1) (a) Where, for any reason, the whole or any part of the turnover of business of a dealer has escaped assessment to tax, the assessing authority may, subject to the provisions of sub-section (2), at any time within a period of five years from the "date of order of the final assessment by the assessing authority" determine to the best of its judgement the turnover which has escaped assessment and assess the tax payable on such turnover after making such enquiry as it may consider necessary and after giving the dealer a reasonable opportunity to show cause against such assessment.*

**7.** It is not in dispute that the order-in-original was passed on 24.12.2003, in respect of Assessment Year 2001-2002, whereas revisional notice was issued on 07.09.2007. A plain reading of the pre-amended Section 16(1)(a) of TNGST Act fixes the commencement of limitation to invoke revisional power in respect of escaped assessment is from the date of expiry of the year to which the tax relates. After the amendment, i.e., 01.07.2002, the limitation period of five years is to be reckoned from the date of the order of final assessment passed by the Assessing Authority.

**8.** In the present case, the order-in-original was passed on 24.12.2003, i.e., after the amendment. Therefore, for any reason, the whole or part of the turnover of the business of a dealer has escaped assessment to tax, the Assessing Authority has the right to revise the assessment within a period of five years from the date of order of the final assessment by the Assessing Authority.

**9.** The pre-amendment provision does not apply to the facts of the case, since the order-in-original was passed on 24.12.2003 though the year to which the tax relates is 2001-2002. Reckoning the limitation from the date of the final assessment order, i.e., 24.12.2003 and the proceedings to assess the escaped turnover having been commenced on 07.09.2007 and the revised assessment order dated 16.04.2008, we find that the reason for rejecting the appeal of the State is incorrect and contrary to the facts and interpretation of Section 16(1)(a) of TNGST Act (post-amendment).

**10.** Accordingly, it is appropriate to set aside the orders of the Tribunal as well as the Appellate Authority and remit the matter to the First Appellate Authority for reappreciation of the facts and law and pass orders in accordance with law within a period of four months from the date of receipt of this order.

**11.** With the above finding, this Tax Case No.67 of 2017 is disposed of. There shall be no order as to costs.

**(Dr. G.JAYACHANDRAN, J.) & (N.MALA J.)**
**24-06-2026**

Index :Yes/No.
Neutral Citation :Yes/No.
bsm

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

**Dr. G.JAYACHANDRAN, J.**
**&**
**N.MALA, J.**
bsm

**T.C.No.67 of 2017**

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