BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

AND

THE HON'BLE MR JUSTICE K.K.RAMAKRISHNAN

TCR(MD).No.1 of 2023

Tvl. Carmel Engineering,
Plot No.4, Penial Nagar,
Viraganur Dam,
Madurai-9. .. Petitioner

Vs.

The State of Tamil Nadu,
represented by
the Joint Commissioner (CT),
Madurai Division,
Madurai. .....Respondent

Prayer : Revision case filed under Section 38of the TNGST Act, 1959 r/w Rule 30 of the TNGST Rules, 1959, to revise the order of the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench) Madurai, dated 20.09.2022 passed in Madurai Tribunal State Appeal No.162 of 2009.

For Petitioner : Mr.A.Chandrasekaran

For Respondent : Mr.R.Suresh Kumar,
Additional Public Prosecutor

ORDER

(Order of the Court was made by N. ANAND VENKATESH,J.)

This Tax Case Revision has been filed under Section 38 of the TNGST ACT, 1959 r/w Rule 30 of the TNGST Rules, 1959, against the order passed by the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench) Madurai, dated 20.09.2022 in Madurai Tribunal State Appeal No.162 of 2009.

2. The case of the petitioner is that they are the manufacturer and dealer in printing machines and an assessee on the file of the Commercial Tax Officer, Thirupparankundram Circle, Madurai. An inspection was conducted by the Enforcement Wing on 18.08.2005 and the officers were able to find some defects and accordingly, arrived at a stock difference to the tune of Rs.12,24,023/-. They also added 16.38% towards gross profit and arrived at the sales suppression at Rs.14,28,518/-. They further

recovered 16 slips of papers allegedly containing business transaction and other books maintained in the place of business by issuing D-7 receipts.

3. A show-cause came to be issued to the petitioner and the petitioner also gave a reply. The Assessing Officer passed an order of assessment dated 24.08.2007 and mulcted the petitioner with a tax liability of Rs.6,78,730/- surcharge of Rs.33,758/- and penalty of Rs.3,15,133/-.

4. The petitioner aggrieved by the assessment order, filed an appeal before the Appellate Assistant Commissioner (CT), Madurai. The First Appellate Authority, after hearing both sides, passed an order dated 03.06.2008 deleting the entire actual suppression of Rs.14,28,518/- arrived at towards the stock variation, but, confirmed the entire actual suppression of Rs.5,43,945/- arrived at towards D-7 slips. The Appellate Authority further deleted the equal time addition made thereon, but, upheld the levy of the tax under Section 3(4) of the TNGST Act and refixed the penalty at Rs.59,972/-. Insofar as the petitioner is concerned, the order had become final and no further appeal was filed.

5. However, the Department preferred an appeal before the Tamil Nadu Sales Tax Appellate Tribunal, Madurai. The Tribunal by the impugned order dated 20.09.2022, set aside the order passed by the Appellate Authority and allowed the appeal and restored the order that was passed by the Assessing Officer and also directed the Assessing Authority to work out the penalty. Aggrieved by the same, the present Tax Case Revision has been filed.

6. This Tax Case Revision was admitted on 08.03.2023 and notice was ordered. However, no question of law was framed. After service of notice, the matter was listed for hearing today and this Court after hearing both sides, framed the following questions of law.

> *"(a). Whether the Appellate Tribunal is correct in setting aside the order of the First Appellate Authority which was passed after considering all the records available on the files and the documents produced by the petitioner at the time of hearing in support of their case and verified by the Departmental representative and by following the orders passed by the Sales Tax Appellate Tribunals at Chennai and Madurai?*

(b).Whether the Appellate Tribunal is correct in ignoring the plea of the petitioner that the inspecting officers did not take the actual stock into consideration but only adopted money value for purchases, sales and of the stocks and added uniform Gross Profit to arrive at the alleged stock discrepancies which is not a correct method as held in various judgments?

(c).Whether the Appellate Tribunal is correct in ignoring the ratio laid down by this Court in the case of State of Tamil Nadu Vs. Jalaram Timber Depot in Tax Case (Revision) (MD).No.100 of 2012 dated 11.10.2012 which categorically held that adopting money values for purchases, sales and of stocks and adding Gross Profit will not reveal the correct position of available stock and and the said method is not a correct one to arrive at any stock discrepancies thereon?"

7. This Court carefully considered the submissions made on either side and the materials available on record.

8. The Appellate Authority while passing the order had taken into consideration the Challan bearing Nos.001 and 002 and found that the

petitioner had received goods worth about Rs.12,20,331/- for fabricating work on coolie basis and the same was not considered by the Department. In view of the same, the Appellate Authority had interfered with insofar as the actual suppression of Rs.14,28,518/- arrived at towards the stock variation. However, the entire actual suppression of Rs.5,43,945/- arrived at D-7 slips was confirmed. On the very same reasoning, the Appellate Authority also deleted the equal time addition made, but upheld the levy of tax on an estimated turn-over and confirmed the levy of higher rate of tax of 12% on a turn-over for want of Form-XVII Declarations. Accordingly, the Appellate Authority refixed the penalty at Rs.59,972/- under Section 12(3)(b)(iii) of the TNGST Act.

9. The Tribunal, while considering this issue, has rendered a finding that the Appellate Authority had relied upon the Delivery Challan No.002 and this Delivery Challan was not available with the Assessing Officer and this Challan was also not available before the Tribunal. In view of the same, the Tribunal restored the order passed by the Assessment Officer.

10. The above finding rendered by the Tribunal is in total disregard to the fact that the Delivery Challan bearing No.002 was a document that was verified by the Appellate Authority after hearing and getting the assistance of the Departmental representative. Therefore, it was not a document which was thrown as a surprise against the Department. In fact, the Department was aware about this Challan and only after hearing the Department, the Appellate Authority had passed the order.

11. In view of the above, we hold that the Tribunal was not right in ignoring the Delivery Challan No.002, which was the main document over which reliance was placed by the Appellate Authority while passing the order.

12. In the light of the above discussion, we hold that the Tribunal disregarded the documents produced by the petitioner at the time of hearing before the Appellate Authority, which was also verified by the Departmental representative and thereby, a vital evidence which was taken into consideration by the Appellate Authority was not considered by the Tribunal.

13. The veracity of the Delivery Challan No.002 produced by the petitioner was not even questioned by the Department, but, however, the finding of the Tribunal is that the document is not even available and therefore, the order passed by the Appellate Authority has been interfered with. Certainly, the order passed by the Tribunal suffers from perversity.

14. The substantial questions of law framed by the Court is answered accordingly in favour of the petitioner and this Tax Case Revision stands allowed. No costs.

(N.A.V.,J..) (K.K.R.K.,J.,)
27.03.2026

Index : Yes / No
Internet : Yes / No
TSG
To
1.The Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench)
Madurai.

2.The Joint Commissioner (CT),
Madurai Division,
Madurai.

N. ANAND VENKATESH,J.
AND
K.K.RAMAKRISHNAN,J.

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