BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 02.03.2026

CORAM

THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

W.P(MD)No.5635 of 2026
and
W.M.P(MD)No.4696 of 2026

Tvl.Annai Jewellers
Represented by its Partner
P.Selvaraj aged about 56 years,
S/o.Paulraj Nadar
No.269/7, Palayamkottai Road,
Thoothukudi-628 002. ... Petitioner

Vs.

1.The Commissioner of Commercial Taxes,
O/o.The Principal and Special Commissioner of Commercial Taxes,
Exhilagam, Chepauk,
Chennai-600 005.

2.The Assistant Commissioner (ST)
Tuticorin -I Assessment Circle,
Commercial Taxes Buildings,
282-A Beach Road,
Thoothukudi-628 001. ...Respondents

Writ Petition is filed under article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records pertaining to the impugned order of the 2nd respondent in Reference

No.ZD331225402615S/2021-22 dated 26.12.2025 and quash the same.

For Petitioner :Mr.B.Rooban
For Respondents :Mr.R.Suresh Kumar
Special Government Pleader

ORDER

This writ petition is filed with a prayer to call for the records relating to the impugned order of the second respondent bearing Reference No.ZD331225402615S/2021-22 dated 26.12.2025 and to quash the same and for such further or other orders.

2.Upon hearing the learned counsel for the petitioner and perusing the material records of the case, the grievance of the petitioner is that the petitioner was running its business originally by way of a partnership firm and thereafter, the very same individuals and the business migrated to a corporate account, inasmuch as they incorporated a company known as Annai Jewellers Private Limited and a new account has been started. However, the firm's account was not closed because the assessment proceedings were not over and in the interregnum, some of the suppliers without noticing the change of account, had transacted in the old account including raising of invoices etcetera. This is taken exception of and the impugned order of assessment is now passed mulcting the liability on the petitioner firm. Therefore, the petitioner is aggrieved by the assessment order.

3.The learned counsel submits that since the appellate authority would also go within the four corners of Section 25(4) r/w Section 16 of the Act and would again will not consider the interplay between the corporate account and the firm account, this Court should entertain the writ petition without relegating the petitioner to the appellate remedy.

4.Per Contra, they learned Additional Government Pleader would submit that the appellate authority exercises a concurrent jurisdiction as the same as the original assessing authority and therefore all the points that can be raised before the appellate authority also and the appellate authority is free to consider the current issue also.

5.I have considered the rival submissions made on either side and perused the material records of the case.

6.The crux of the argument of the learned counsel for the petitioner is that there is no revenue loss and they are migrating from the partnership to the corporate account and without noticing them, even though the suppliers and other persons were dealt with in the old account and an opportunity ought to have been granted to the petitioner firm to file a rectified ITC 02 under Rule 41 of the Rules, and without doing so, the liability is mulcted.

7.In view of said submission made, since it is expressly pleaded that the said error is neither willful nor wanton and there is also no revenue loss, I am of the view that the petitioner's case can be considered. However, since the petitioner has an alternative remedy, the said ground can also be raised before the appellate authority. As and when such a ground is raised, the appellate authority shall consider the plea on its merits without any technical view. It shall consider as to whether or not the petitioner firm as well as the corporate entity have acted willfully, so as to cause revenue loss or whether it is an inadvertent error. If it is an inadvertent error, the law leans in favour of only correcting the error and not mulcting the liability. With the said principle in mind, the Appellate Authority shall consider the appeal, if any, to be filed.

8.In view thereof, this writ petition is disposed on the following terms:

(i)Within one week from the date of receipt of the web copy of the order, without waiting for the certified copy of the order, the petitioner shall prefer an appeal under Section 107 of TNGST Act 2017.

(ii)As and when such an appeal is filed, the same shall be treated as within time and considered on its own merits, especially bearing the observations made Supra, in the order and final orders shall be passed in accordance with law. No cost. Consequently, connected miscellaneous petition is closed.

02.03.2026

NCC:Yes/No
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To
1.The Commissioner of Commercial Taxes,
O/o.The Principal and Special Commissioner of
Commercial Taxes,
Exhilagam, Chepauk,
Chennai-600 005.

2.The Assistant Commissioner (ST)
Tuticorin -I Assessment Circle,
Commercial Taxes Buildings,
282-A Beach Road,
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D.BHARATHA CHAKRAVARTHY, J.

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