BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **17.04.2026**

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
AND
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

T.C.R. (MD)No.41 of 2024

The State of Tamil Nadu
Rep. by the Joint Commissioner (CT)
Madurai Division, Madurai. : Petitioner

Vs.

Tvl. Rayalaseema Concrete Sleepers(P) Ltd.,
Railway Yard,
Thirumangalam. : Respondent(s)

PRAYER: Tax Revision Petition filed under section 38 of the TNGST Act, to set aside the impugned order passed by the Tami Nadu Sales Tax Appellate Tribunal (AB) Madurai in MTSA No.288 of 2016 dated 31.10.2023 and to restore the penalty levied by the assessing officer under section 12(3)(b) of the TNGST Act 1959 and thus render justice.

For Petitioner : Mr.R.Suresh Kumar
Additional Government Pleader
For Respondent : Mr.R.Veera Manikandan

ORDER

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

This revision has been filed by the State under Section 38 of the "Tamil Nadu Goods and Services Tax Act, 2017" (for brevity, hereinafter referred to as "TNGST Act"), against the order passed by the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai, on 31.06.2023 in MTSA No.288 of 2016, wherein the Tribunal confirmed the order passed by the appellate tribunal setting aside the penalty that was levied as against the respondent.

2. Heard the learned Additional Government Pleader appearing on behalf of the petitioner and the learned counsel for the respondent, and carefully perused the materials available on record.

3. The case of the petitioner is that on verification of accounts, the assessing authority found that the total turnover of the dealer exceeds fifteen crores. Hence, in view of the provisions of Section 2(1)(aa) of the "Tamil Nadu Additional Sales Tax Act 1970" (for brevity, hereinafter referred to as "TNAST Act"), the assessing authority levied additional

sales tax of 1.5% rejecting the claim of the dealer to the additional sales tax paid at 1% on the total turnover of Rs.32,42,30,668/- and penalty was also levied under Section 12(3)(b) of the TNGST Act, 1959.

4. Aggrieved by the order passed by the assessing authority, the respondent filed an appeal before the appellate authority in AP No.3 of 2012. The appellate authority, by an order dated 04.10.2012, modified the order passed by the assessing authority by upholding the levy of additional tax and setting aside the penalty that was levied against the respondent.

5. Aggrieved over the order passed by the appellate authority, the State filed the appeal before the tribunal. The tribunal through the impugned proceedings dated 31.10.2023, upheld the order passed by the appellate authority insofar as setting aside the levy of penalty against the respondent. Aggrieved by the same, the present revision has been filed before this Court.

6. This Court had ordered notice to the respondent on 13.06.2024 and no question of law was framed. Hence, after service of notice, this

Court heard both sides to see if any question of law is involved in this case.

7. It is not in dispute that the turnover that was reported by the respondent and the turnover that was determined by the assessing authority is the same. The only dispute pertains to the additional sales tax payable. The respondent had paid only 1% and what was payable under Section 2(1)(aa) of the TNAST Act, as per slab is 1.5%. For this difference in the payment of tax, the assessing authority had levied penalty.

8.The appellate authority while dealing with this issue had taken note of the language that has been employed under Section 12(3)(b) of the TNAST Act. The appellate authority took into consideration Sub-section (2), which empowers the assessing officer to assess the dealer to the best of its judgment in two scenarios.

9. The first scenario is where if no return has been submitted by the dealer under Sub-section (1) within the prescribed period and the second scenario is where a return has been submitted but it is incorrect or

incomplete. In the case in hand, the assessing authority has brought this case under the second scenario on the ground that an incorrect return has been filed by the respondent by paying the additional sales tax at 1% instead of 1.5%.

10. The appellate authority took into consideration some of the earlier judgments and came to a conclusion that the case in hand will neither fall under incorrect nor under incomplete returns and therefore, there is no scope for levying penalty against the respondent. This reasoning given by the appellate authority has been confirmed by the tribunal.

11. We do not find any illegality in the decision taken by the appellate authority and which was confirmed by the tribunal. This is in view of the fact that levy of penalty is in the nature of a punishment and therefore, the provision has to be strictly construed before penalty is levied. Section 12(3)(b) of the TNAST Act, does not contemplate levy of penalty for payment of a lower percentage of tax. In view of the same, we do not find any question of law involved in the present case.

12. In the result, this revision stands dismissed. There shall be no order as to costs.

[N.A.V., J.] **[K.K.R.K., J.]**
17.04.2026

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
PKN

To

1.The Joint Commissioner (CT),
State of Tamil Nadu,
Madurai Division, Madurai

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

PKN

Judgment made in

TCR (MD)No.41 of 2024

17.04.2026