BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.04.2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

AND

THE HON'BLE MR JUSTICE K.K.RAMAKRISHNAN

T.C.R(MD).No.3 of 2023
and
C.M.P(MD) No.7574 of 2023

Tvl.Lily Trading Company,
No.309, North Masi Street,
Madurai – 625 001. .. Petitioner

Vs.

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

2.The State Tax Officer,
Tamilsangam Salai Assessment Circle,
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 11.04.2023 in MTSA No.229 of 2022 insofar as the reversal of Input Tax Credit restored and penalty sustained under Section 27(4) of the TNVAT Act for the assessment year 2011-2012.

For Petitioner : Mr.R.D.Ganesan

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

ORDER

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

This appeal has been filed under Section 60 of the TNVAT Act r/w Rule 14(13), challenging the order passed by the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai, dated 11.04.2023, made in MTSA No.229/2022.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing on behalf of the respondents.

3. The petitioner is a registered dealer of vegetable oil and other products. The petitioner was originally deemed to have been assessed under Section 22(2) of the TNVAT Act. A revision of assessment was made by the

Assessing Officer by adopting the web report of the Department and imposed reversal of ITC of Rs.1,38,690/- with penalty of Rs.1,38,690/- under Section 27(4) of the TNVAT Act. Aggrieved by the same, the petitioner filed an appeal before the Deputy Commissioner. The Appellate Deputy Commissioner, through proceedings dated 24.05.2022, allowed the appeal. Aggrieved by the order passed by the appellate authority, the Department filed an appeal before the Tamil Nadu Sales Tax Appellate Tribunal. The Tribunal, through the impugned proceedings dated 11.04.2023, set aside the order passed by the appellate authority and allowed the appeal. Aggrieved by the same, the assessee has approached this Court. When this petition was entertained by this Court, this Court framed the following substantial question of law on 26.07.2023.

> *(a) Whether on the facts and circumstances of the case, the reversal of Input Tax Credit (ITC) was right in law and whether the mandate of Circular No.5 issued by the Commissioner of Commerical Taxes, dated 24.02.2021 has been followed by the Sales Tax Appellate Tribunal in passing the impugned order?*

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

5. The learned counsel for the petitioner submitted that there was a clear violation of the procedure contemplated in Circular No.5 issued by the Commissioner of Commercial Taxes, dated 24.02.2021 and the same was not taken into consideration by the Tribunal and on this ground alone, the order passed by the Tribunal is liable to be interfered with by this Court.

6. The learned Additional Government Pleader appearing on behalf of the respondents submitted that the Assessing Officer had specifically pointed out the mismatch with reference to the cross-verification report and while the Appellate Authority considered the documents submitted by the petitioner, it did not go into the issue of mismatch that was pointed out by the Assessing Officer and therefore, the Tribunal had interfered with the order passed by the Appellate Authority.

7. In the case in hand, the learned counsel for the petitioner places specific reliance upon Circular No.5, dated 24.02.2021. This Circular

provides for assessment made on the basis of a computer generated mismatch report, where the procedure was given to deal with such cases. The learned counsel for the petitioner submitted that this procedure provided in this Circular was not followed by the Assessing Officer.

8. On carefully going through the order passed by the Appellate Authority, it is seen that the Appellate Authority had taken into consideration Circular No.5, dated 24.02.2021 and has held that the Assessing Officer has to cross check the reference letters and the cross verification reply received from the other officer and based on the same, the levy of reversal of ITC and penalty has to be imposed. While dealing with that issue, the Tribunal took into consideration certain documents that were relied upon by the petitioner and came to the conclusion that the claim made by the petitioner is proper and supported by valid documents. Thus, it was concluded that the petitioner had fulfilled the statutory obligation as required under the provisions of the TNVAT Act for claiming input credits on the purchases made by them in the course of their business. Accordingly, the ITC claimed by the petitioner was held to be valid.

9. The Tribunal, while dealing with this issue, rendered a finding that the Appellate Authority, upon considering the documents, did not properly reconcile the mismatch pointed out by the Assessing Officer and therefore, the order of the Appellate Authority has to be interfered with. If, according to the Tribunal, the Appellate Authority, while dealing with the documents, should have specifically dealt with the mismatch and provided the necessary details in the order passed in the appeal, the matter ought to have been remanded back to the Appellate Authority to undertake this exercise. Instead, the order of the Appellate Authority was set aside and the decision taken by the Assessing Officer was restored. This process adopted by the Tribunal is liable to be interfered with by this Court.

10. In the light of the above discussion, the order passed by the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai, dated 11.04.2023, made in MTSA No.229/2022, is hereby set aside and the matter is remanded back to the file of the Appellate Deputy Commissioner (ST), Madurai. The Appellate Authority shall give opportunity to both sides and shall specifically deal with the mismatch, as was pointed out by the Assessing Officer, based on the documents produced by both sides and shall

also see if the procedure followed was in compliance with Circular No.5, dated 24.02.2021. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

11. In the result, this petition is allowed with the above directions. Consequently, connected Miscellaneous Petition is closed. No costs.

(N.A.V.,J..) (K.K.R.K.,J.,)
09.04.2026

Index : Yes / No
Internet : Yes / No

Indu

To

1.The Deputy Commissioner (CT),
Madurai Division.

2.The State Tax Officer,
Tamilsangam Salai Assessment Circle,
Madurai.

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

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