



NO.423, M.S.ROAD,

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Tuesday, the Third day of September Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice P.VELMURUGAN
and
The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

TCR(MD) Nos.32 to 39 of 2024
and
CMP(MD) Nos.11922, 11972, 11976 to 11980, 11982 of 2024

KURIAN ABRAHAM PVT LTD
REP. BY ITS DIRECTOR,
NO.423, M.S.ROAD,
PARVATHIPPURAM,
NAGARCOIL,
KANYAKUMARI DISTRICT. ... Petitioner / Respondent
in TCR (MD) Nos.32, 33 and 39 of 2024

KANAM LATEX INDUSTRIES PVT LIMITED,
REP. BY ITS DIRECTOR,
ABRAHAM KURIAN,
6/79B, PULIYOORKURICHI,
THUCKALAY,
KANYAKUMARI DISTRICT. ... Petitioner / Respondent
in TCR (MD) Nos.34, 35, 36, 37 and 38 of 2024

Vs

THE STATE OF TAMIL NADU
REP. BY THE JOINT COMMISSIONER (CT)
TIRUNELVELI DIVISION,
TIRUNELVELI DISTRICT. ... Respondent / Petitioner in all revisions



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Prayer in TCR(MD). 32/ 2024 :

Tax Case (Revision) filed under Section 60 of the TNGST Act to revise the order of the Sales Tax Appellate Tribunal (Additional Bench) Madurai dated 30-05-2024 in MTSA No.15/2016 in so far purchase Tax Section 12 of the TNVAT Act for the Assessment Year 2009-2010.

Prayer in CMP(MD). 11922/ 2024 :

To grant an Ad-interim stay of all further proceedings pursuant to the impugned order dated 03-05-2024 made in MTS.No.15 of 2016 on the file of the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai pending disposal of the above Tax Cases Revision.

Prayer in TCR(MD). 33/ 2024 :

Tax Case (Revision) filed under Section 60 of the TNVAT Act to set aside the order of the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench) Madurai dated 30-05-2024 in MTSA No.14/2016 for the Assessment Year 2007-2008.

Prayer in CMP(MD). 11978/ 2024 :

To grant an Ad-interim stay of all further proceedings pursuant to the impugned order dated 03-05-2024 made in MTSA.No.14 of 2016 on the file of the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai pending disposal of the above Tax cases revision.

Prayer in TCR(MD). 34/ 2024 :

Tax Case (Revision) filed under Section 60 of the TNVAT Act to set aside the order of the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai dated 03.05.2024 in MTS No.8/2016 dated 03.05.2024 for the Assessment Year 2007-2008.

Prayer in CMP(MD). 11972/ 2024 :

To grant an Ad Interim Stay of all further proceedings pursuant to the impugned order dated 03.05.2024 made in MTSA No.8 of 2016 on the file of the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai pending disposal of the above Tax Cases Revision.



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Prayer in TCR(MD). 35/ 2024 :

Tax Case (Revision) filed under Section 60 of the TNVAT Act to set aside the order of the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai dated 03.05.2024 in MTS No.9/2016 dated 03.05.2024 for the Assessment Year 2010-2011.

Prayer in CMP(MD). 11976/ 2024 :

To grant an Ad Interim Stay of all further proceedings pursuant to the impugned order dated 03.05.2024 made in MTSA No.9 of 2016 on the file of the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai pending disposal of the above Tax Cases Revision.

Prayer in TCR(MD). 36/ 2024 :

Tax Case (Revision) filed under Section 60 of the TNVAT Act to set aside the order of the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai dated 03.05.2024 in MTSA No.7/2016 dated 03.05.2024 for the Assessment year 2008-2009.

Prayer in CMP(MD). 11977/ 2024 :

To grant an AD-Interim Stay of all further proceedings pursuant to the impugned order dated 03.05.2024 made in MTSA. No.7 of 2016 on the file of the Tamil Nadu Sale Tax Appellate Tribunal (Additional Bench), Madurai pending disposal of the above Tax cases Revision.

Prayer in TCR(MD). 37/ 2024 :

Tax Case (Revision) filed under Section 60 of the TNVAT Act to set aside the order of the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai dated 03.05.2024 in MTS No.13/2016 dated 03.05.2024 for the Assessment Year 2007-2008.

Prayer in CMP(MD). 11979/ 2024 :

To grant an AD-Interim Stay of all further proceedings pursuant to the impugned order dated 03.05.2024 made in MTSA. No.13 of 2016 on the file of the Tamil Nadu Sale Tax Appellate Tribunal (Additional Bench), Madurai pending disposal of the above Tax cases Revision.



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Prayer in TCR(MD). 38/ 2024 :

Tax Case (Revision) filed under Section 60 of the TNVAT Act to set aside the order of the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai dated 03.05.2024 in MTS No.6/2016 dated 03.05.2024 for the Assessment Year 2009-2010.

Prayer in CMP(MD). 11982/ 2024 :

To grant an AD-Interim Stay of all further proceedings prusuant to the impugned order dated 03.05.2024 made in MTSA. No.6 of 2016 on the file of the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai pending disposal of the above Tax Cases Revision.

Prayer in TCR(MD). 39/ 2024 :

Tax Case (Revision) filed under Section 60 of the TNVAT Act to set aside the order of the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai dated 03.05.2024 in MTSA No.16/2016 for the Assessment Year 2010-2011.

Prayer in CMP(MD). 11980/ 2024 :

To grant an Ad Interim Stay of all further proceedings pursuant to the impugned order dated 03.05.2024 made in MTSA No.16 of 2016 on the file of the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Madurai pending disposal of the above Tax Cases Revision.

ORDER : These tax case revisions coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.AJMAL KHAN, Senior Counsel for M/S. AJMAL ASSOCIATES, Advocate for the petitioner in all cases and of Mr.R.SURESH KUMAR, Additional Government Pleader on behalf of the Respondent in all cases, the Court made the following order:-

Heard the learned senior counsel appearing for the petitioners in all the cases.

2. There are arguable grounds to admit this revision. Hence, the revision is admitted on the following substantial questions of law.



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"1) Whether the demand of purchase tax is sustainable when the Petitioner has paid the entire sale tax being the output tax and even if the purchase tax is paid and the same can be refunded as input tax credit under Section 12 (2) of Tamil Nadu Value Added Tax Act as the latex rubber is falling under Schedule 1 of Tamil Nadu Value Added Tax Act and the same amounts to double taxation?

(ii) Whether the impugned order passed by the Sales Tax Appellate Tribunal is sustainable on erroneous finding of fact that the Petitioner has entered the amount of purchase tax in its returns in Form I against the column provided for Input Tax Credit and thus filed the wrong returns especially when until the month of May 2010, the online return in Form-1 was designed in such a nature that while the Petitioner entered the amount of purchase turn over taxable under Section 12 of the Act, the tax due would be calculated automatically and added to the Total Input Tax Credit by default?"

3. There shall be an order of interim stay of further proceedings on condition that the petitioners deposits 20% of the amount arrived by the assessing officer each to the credit of M.S.T.A.Nos.6 to 9 of 2016 and 13 to 16 of 2016 respectively on the file of the Tamil Nadu Sales Tax Appellate Tribunal, Additional Bench, Madurai on or before 03.10.2024.



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4. List the matter on 04.10.2024.

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sd/-
03/09/2024

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/09/2024

Sub-Assistant Registrar
(C.S.I /II /III /IV)

Madurai Bench of Madras High Court,
Madurai - 625 023.

MBI

To

THE JOINT COMMISSIONER (CT)
STATE OF TAMIL NADU
TIRUNELVELI DIVISION,
TIRUNELVELI DISTRICT.

COPY TO:

THE OFFICER INCHARGE,
TAMIL NADU SALES TAX APPELLATE TRIBUNAL (ADDITIONAL BENCH),
MADURAI

+8 CC to M/s.M/S. AJMAL ASSOCIATES, Advocate (SR-10853 to 10860[I] dated
04/09/2024)

ORDER

IN

TCR(MD) Nos.32 to 39 of 2024

and

CMP(MD) Nos.11922, 11972, 11976 to 11980, 11982 of 2024

Date :03/09/2024



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