



TCR (MD)Nos.32 to 39 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 17.04.2026

PRONOUNCED ON : 21.04.2026

CORAM:

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

T.C.R. (MD)Nos.32 to 39 of 2024

TVL Kurian Abraham Pvt Ltd
Rep. by its Director,
No.423, M.S.Road,
Parvathipuram, Nagarcoil,
Kanyakumari District.

: Petitioner(s)
in TCR(MD) Nos.32, 33, 37, 39/2024

Tvl.Kanam Latex Industries Pvt Ltd.,
Rep. by its Director,
Abraham Kurian
6/79B, Puliyoorkurichi,
Thuckalay,
Kanyakumari District.

: Petitioner(s)
in TCR(MD) Nos.34, 35, 36, 38/2024

Vs.

The State of Tamil Nadu,
Rep. by the Joint Commissioner,
Commercial Taxes, Tirunelveli Division,
Tirunelveli District.

: Respondent(s)
in all revisions



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COMMON PRAYER: Tax Cases (Revisions) filed under Section 60 of the TNVAT Act to set aside the common order of the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench) Madurai, dated 30.05.2024, made in MTSA Nos.6, 7, 8, 9, 13, 14, 15, 16 of 2016 for the Assessment Year 2007 – 2008, 2008 – 2009, 2009 – 2010 and 2010 – 2011.

For Petitioners	: Ms.H.Jasima Yasmin for M/s. Ajmal Associates (in all revisions)
For Respondent	: Mr.R.Suresh Kumar Additional Government Pleader (in all revisions)

COMMON ORDER

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

The issue involved in all these revisions are common. They are taken together, heard and disposed of through this common order.

2. The common order passed by the Additional Sales Tax Appellate Tribunal, Additional Bench, Madurai, in MTSA Nos. 6, 7, 8, 9, 13, 14, 15 and 16 of 2016, dated 03.05.2024, has been assailed by the assessee in all these revision petitions filed under Section 60 of the “Tamil Nadu Value



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Added Tax Act” (hereinafter referred to as “the Act”, for brevity), read with Rule 14(13) of the Rules.

3. The petitioner company is involved in the business of manufacture and export of latex surgical gloves and examination gloves. They used to purchase raw rubber from registered dealers as well as from unregistered sources. The further case of the petitioner is that they were regularly submitting the returns and paying tax under Section 12 of the Act, and are taking Input Tax Credit (ITC) for the same. Originally, the petitioner was assessed on the turnovers by accepting the returns filed by them in Form I for the years 2007–2008, 2008–2009, 2009–2010 and 2010–2011.

4. On verification of the assessment records, the third respondent issued revised assessment order dated 12.11.2012 by levying tax for purchase turnover in the following manner:

Sl.No.	Assessment year	Appeal No.	Purchase Turnover	Tax Disputed
1.	2007-08	V/13/2012	Rs.3,28,37,126 @ 4%	Rs.13,13,487
2.	2008-09	V/14/2012	Rs.9,01,40,425	Rs.36,05,617
3.	2009-10	V/19/2012	Rs.10,03,37,700	Rs.40,13,508
4.	2010-11	V/7/2012	Rs.1,12,61,347	Rs.4,54,454



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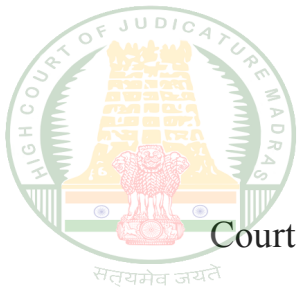
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Sl.No.	Assessment year	Appeal No.	Purchase Turnover	Tax Disputed
1.	2007-08	V/15/2012	Rs.9,76,65,980 @ 4%	Rs.39,06,639
2.	2008-09	V/16/2012	Rs.11,64,83,130	Rs.46,59,325
3.	2009-10	V/17/2012	Rs.13,06,49,258	Rs.52,25,970
4.	2010-11	V/18/2012	Rs.1,09,63,142	Rs.4,38,526

5. The petitioner was aggrieved by the same and hence appeals were filed before the Appellate Deputy Commissioner of Commercial Taxes, Tirunelveli. The appeals were allowed by a common order dated 16.09.2015.

6. Aggrieved by the orders passed by the appellate authority, the State Government filed second appeals before the Tribunal in MTSA Nos.6, 7, 8, 9, 13, 14, 15, 16 of 2016. The Tribunal, vide common order dated 03.05.2024, allowed all the second appeals and the order of the assessing authority was restored. Aggrieved by the same, all these revision petitions have filed by the assessee.

7. These revision petitions were originally filed as writ petitions and when the writ petitions came up for hearing on 09.08.2024, this



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Court directed the Registry to convert the writ petitions into tax cases.

Accordingly, all the writ petitions were converted into tax cases and listed for hearing on 03.09.2024 and the following substantial questions of law were framed:

(i) 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?"

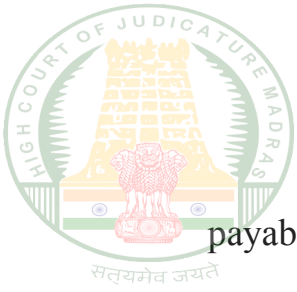


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8. The learned counsel for the petitioner submitted that during the relevant point of time till May 2010, the online return in Form I was designed in such a manner that when the petitioner entered the amount of purchase turnover taxable under Section 12 of the Act, the tax due would be calculated automatically and added to the eligible total ITC by default. Apart from that, on the tax payable side, the purchase tax under Section 12 would also be automatically added in the output tax side and it will be added to the net tax payable amount. Therefore, when the petitioner calculated the tax to be paid, the purchase tax under Section 12 would be tallied with the ITC and output tax payable, as the purchase tax amount was added on both sides automatically. In the light of this difficulty, there was no provision for payment of purchase tax in the month of return and the ITC column was un-editable. As a result, there was no provision for the petitioner to claim the purchase tax paid as ITC in the following months.

9. The further case of the petitioner is that this problem continued till May 2010 and it was rectified in June 2010. Thereafter, the tax payable under Section 12 of the Act will automatically appear in the tax



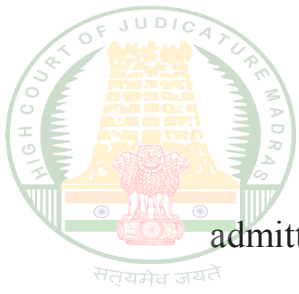
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payable side and it would not be added to the total ITC payable amount.

Hence, the ITC column became editable and as such, the petitioner was able to claim ITC in the following months.

10. In the light of the reasons assigned by the petitioner, they were not in a position to pay the purchase tax under Section 12 of the Act only due to the non-availability of payment provision in the software provided by the department, as well as the non-availability of provision to claim for ITC in the following months. Except the online mode, the petitioner was also not in a position to make any payment. It is submitted that this issue was specifically dealt with by the appellate authority in detail and the assessment order passed by the assessing authority was set aside. However, the Tribunal, without considering the fact that the entire fiasco had taken place due to the software issues faced by the dealers, straight away set aside the order of the appellate authority on the ground that the petitioner was bound to pay the purchase tax and since the same has not been paid, the petitioner cannot blame the department on any ground.

11. Per contra, the learned Additional Government Pleader submitted that the petitioner was liable to pay the purchase tax and



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admittedly the same was not paid and therefore, the Tribunal was perfectly right in allowing the second appeal and restoring the order passed by the assessing authority.

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

13. It is not in dispute that purchase tax is liable to be paid by the dealer and based on the same, the dealer is entitled to ITC, which can be adjusted towards the output tax on the sales turnover. In the case in hand, the petitioner has submitted returns and has paid tax on the entire sales turnover during the years 2007–2008, 2008–2009, 2009–2010 and 2010–2011. The purchase tax had to be paid through online mode and till May 2010, serious problems were faced by the dealers since the online return in Form I was designed in such a manner that while the petitioner entered the amount of purchase turnover taxable under Section 12 of the Act, the tax would be calculated and it will be added to the eligible ITC by default. Simultaneously, in the tax payable side also, it will be added in the output tax side and consequently it will be added to the net tax payable amount. As a result, when the tax is calculated to be paid, the



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purchase tax under Section 12 of the Act will stand tallied with the ITC and the output tax payable, since the purchase tax was added on both sides automatically due to the defect in the software. In this process, the petitioner neither paid the purchase tax nor availed the ITC. As a result, it remained revenue neutral.

14. The appellate authority, after dealing with the scope of Section 12 of the Act, specifically dealt with the problem faced by the petitioner due to the defect in the software used by the department.

15. The appellate authority also took into consideration the judgment of the High Court and one of the orders passed by the Additional Commissioner and came to the conclusion that the demand of purchase tax is not sustainable. Accordingly, the levy of tax at the rate of 4% on the purchase turnover was set aside.

16. The Tribunal, while dealing with this issue, came to a conclusion that the petitioner is duty bound to pay purchase tax and without paying the same, they could not have entered the same in their returns against the column provided for ITC. Therefore, it was concluded



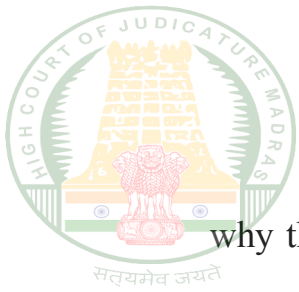
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that the order of the appellate authority deleting the levy of purchase tax could not be sustained.

17. Section 12 of the Act provides that every dealer who, in the course of his business, purchases from a registered dealer or from any other person any goods, in circumstances, in which no tax is payable by that registered dealer on the sale price of such goods, shall pay tax on the turnover relating to the purchase at the rate specified in the schedule. Therefore, the petitioner, based on the rubber latex purchased from the local dealers, has to pay the purchase tax under Section 12 of the Act. Admittedly, this purchase tax has not been paid.

18. The appellate authority relied upon the judgment of the High Court in *Deputy Commercial Tax Officer (DG-CTO), Kumbakonam and another*, reported in *VOL 131 STC 73*, which was a case where tax was paid on the sale of goods and therefore it was held that payment of corresponding entry tax at the time of purchase is not called for.

19. The above judgment relied upon by the appellate authority will have no bearing to the facts of the present case. The main reason as to



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why the purchase tax was not able to be paid is that there was defect in the software. There is no escape from the fact that the petitioner had to pay the purchase tax. Having held so, it must be kept in mind that the purchase tax paid can be set off by taking ITC and it can be adjusted towards the output tax on the sales turnover. As stated supra, it was a revenue neutral case where neither purchase tax was paid nor ITC was availed. However, the petitioner had paid tax on the entire sales turnover. Therefore, there is neither any gain for the petitioner nor any loss suffered by the revenue. This situation would not have arisen if not for the defective software used by the department till May 2010. Thereafter, it was rectified and there was no default on the side of the petitioner in paying the purchase tax and availing ITC. Hence, for the fault on the part of the department, the department has turned around and is asking the petitioner to pay the purchase tax without realizing that the existing software available then calculated the purchase tax on the turnover and it was also added to the eligible ITC by default. Further, the purchase tax was added into the output tax side and will be added in the net tax payable amount. As a result, while calculating the tax to be paid, the purchase tax under Section 12 of the Act will get tallied with the ITC and



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the output tax payable, since it was added on both sides automatically due to the defective software.

20. The Tribunal did not take into consideration this serious issue that was faced by the dealers and had merely gone by the letter of law. The first appellate authority had rightly dealt with the situation and the order of the appellate authority did not warrant interference by the Tribunal.

21. In the light of the above discussion, both the questions of law are answered accordingly in favour of the assessee. As a consequence, all the revisions are allowed and the common order dated 30.05.2024, passed by the the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench) Madurai, in MTSA Nos.6, 7, 8, 9, 13, 14, 15 and 16 of 2016, is set aside. No costs.

[N.A.V., J.] [K.K.R.K., J.]
21.04.2026

Index : Yes/No
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AND
K.K.RAMAKRISHNAN, J.

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Judgment made in
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