

## MADRAS HIGH COURT Judgments in VAT CST GST

by Sampathkumar V V

**Imported Goods:** The higher levy of sales tax at 20% mentioned in Entry 14(vi) of Part D of the First Schedule to the TNGST Act, 1959, Entry 8 Part G of the First Schedule and Entry 9 of Eleventh Schedule, on the sales of goods were not ultra vires. Distinguishing the ruling in the case reported in (2002) Vol.127 STC 339) this court held that the imposition of higher rate of sales tax for imported goods would in no way amount to restriction of trade under Part XIII of the Constitution of India. **Tai Industries Ltd, Vs. CTO, Saligramam Assessment Circle W.P.No.35865 of 2004 dated 19.05.2020**

**Transit sales:** The Apex Court In A & G Projects and Technologies Ltd v. State of Karnataka [2009] 2 SCC 326 held that once the first transaction in the interstate sale has suffered CST, subsequent sales effected by transfer of documents during transit is exempt provided conditions prescribed u/s 6(2) are satisfied. If the prescribed conditions are not satisfied, then notwithstanding the fact that the sale is a subsequent sale, the exemption would not be admissible to such subsequent sales. Thus, the argument of the petitioner that there was an E-1 transaction cannot be countenanced in the facts of the present case. **Vega Cotton, Karaikal. vs. 1.The Check Post Officer, DCTO, Hosur 2.DCTO (CT), Karaikal Assessment Circle, W.P.Nos.22802 to 22804 of 2013 Dt 19.05.2020**

**Copies of Documents:** When only certain copies documents were given the impugned proceedings is set aside with directions respondent to furnish copies of documents and pass appropriate orders in accordance with law after hearing the petitioner within a period of three months thereafter through videoconferencing, if situations so warrants on account of continuance of Covid19 pandemic. **M/s.Dekshinamoorthi & Co.,vs CTO Thiruvarur 2. AC(CT), Avarampalayam Assessment Circle, Coimbatore W.P.No.34822 of 2016 dated 19.05.2020**

**Input Tax Credit:** Input tax credit (ITC) cannot be denied to a purchasing dealer if the VAT registration of the supplier dealer who supplied the goods is cancelled retrospectively after the sale was affected to such a purchasing dealer vide ruling in Rayan Tile Bazaar Vs. The Assistant Commissioner (CT), made in W.P.No.1569 of 2018 dated 25.01.2018. Since the petitioner can establish the facts about the genuinity of purchase and goods movements, the Court gave one final chance to the petitioner and remit the case back to the respondent to pass fresh orders preferably within a period of 3 months from date of receipt of this order. **M/s.Bharat Steels vs CTO, Broadway Assessment Circle, W.P.Nos.21085 to 21088 of 2016 Dt : 19.05.2020**

**Encumbrance :**The issue as regards the charge created on the properties, cannot be adjudicated in a writ petition filed under Article 226 of the Constitution of India and the proper remedy for the petitioner is only to approach the competent Civil Court relying upon the undertakings given by his vendor in the sale deeds. The judgment relied upon and reported in (2006) 148 STC 204 (Mad), will not apply to the facts of this present case, **R.Kannan vs 1.State of Tamil Nadu, Commercial Taxes and Religious Endowment Department 2.The Assistant Commissioner, Commercial Tax, Krishnagiri. W.P.No.3932 of 2009 Dated: 26.05.2020**

**Purchase Tax:** If Petitioner had purchased turmeric from dealers who were otherwise liable to tax in terms of Section 3(2) of the TNVAT Act, 2006 but were exempted from payment of tax u/s 15 of the TNVAT Act, 2006, as turnover is below rs 300 Cr, the levy u/s 12 of the TNVAT Act, 2006 is not attracted if the petitioners' turnover was also below Rs 300 Crores during the year **Sunrise Foods Private Limited vs AC (CT) (FAC) Park Road Assessment Circle, Erode. W.P.No.21982 of 2016 Dd 19.05.2020**

**Opportunity:** Show cause notice dated 12.12.2019 indicates that the respondent issued the show cause notice on 12.12.2019 and confirmed the said proposal also on the same day, which goes against the very basic principles of natural justice, **Sree Saravana Engg Bhavani P Ltd., vs The AC (ST), Bhavani. W.P.No.7763 of 2020 DATED: 27.05.2020**

**Goods Detention:** The Check post officer detained the goods at the Check Post and demanded for payment of VAT and compounding fee for release of the goods. The goods in question were directly dispatched by the manufacturer to the Petitioner's site for being installed along with other wind energy equipment at a later point time. The Court stated that there was an error in assumption of jurisdiction by the Check Post officer on the ground that the goods had not suffered tax but the manufacturer had indeed charged tax in the invoice raised on the petitioner and modified the compounding fee to Rs.2000/- **Vestas Wind Technology India Private Limited vs CTO, Enforcement, Roving Squad, Chengalpet, W.P.Nos.28470 of 2013 Dated 19.05.2020**

**Refund:** The petitioner is a dealer of Motor Vehicles who had claimed a refund of accumulated excess Input Tax Credit in terms of Sections 19(17) & 19(18) of the TNVAT Act, 2006 read with Rule 10(10)(a) & (b) and Rule 11 of the TNVAT Rules, 2007 which was not granted stating the dealer is continuing in business and can adjust it for dues. The Court stated that ruling in Unichem Laboratories Ltd. case (2002) 7 SCC 145 is squarely applies to the facts of this matter quashed the impugned order passed with consequential direction to refund the amount lying unutilised after adjustment at the beginning of each financial year. **M.R.Motor Company, Salem. vs. AC (CT), (FAC), Salem Town (South) Circle. W.P.No.31044 of 2013 dated 19.05.2020**

**Natural Justice:** Writ petition is of the year 2011. The impugned order is liable to be sustained as the petitioner has not clearly explained the transaction and TNVAT Act, authorities have passed a fair order. The Court observed that there are several disputed questions of facts, which were not placed before authorities by the petitioner. Stating so, amongst others, Court a chance and the impugned order is quashed with directions **Krishna Timber & Plywood, vs 1.State of Tamil Nadu, 2.The JC (CT), Coimbatore. W.P.No.5470 of 2011 dated : 19.05.2020**

\*\*\*\*\*