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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-10-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE S.RAVEEKUMAR

TC Nos. 10 & 16 of 2020

CNR:{HCMA013035962006} CNR:{HCMA0130360



Case QR



Case QR

The State Of Tamil Nadu
Rep By
The Deputy Commissioner (CT)
Chennai (East) Division, Chennai-600006.

..Petitioner(s) in both

Vs

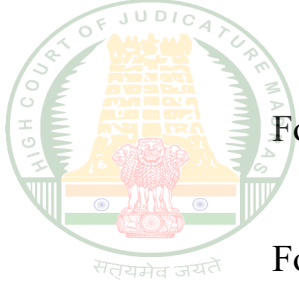
K.C.P.Ltd
No.2, Dr.P.V.Chcrian Crescent Road,
Chennai-600105

..Respondent(s)

In both

Prayer in TC No. 10 of 2020 : Tax Case (Revision) filed under Section 38 of the TNGST Act, 1959 to revise the orders of the Tamil Nadu Sales Tax Appellate Tribunal (MB) Chennai as passed in STA NO.281/2002 dt. 27/10/2003

Prayer in TC No. 16 of 2020 : Tax Case (Revision) filed under Section 38 of the TNGST Act, 1959 to revise the orders of the Tamil Nadu Sales Tax Appellate Tribunal(MB), Chennai as passed in STA.No.286/2002 dated 27.10.2003



For Petitioner(s): Mr.I.Dinesh,
Additional Government Pleader

For Respondent(s): Mr.N.Prasad

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COMMON JUDGMENT

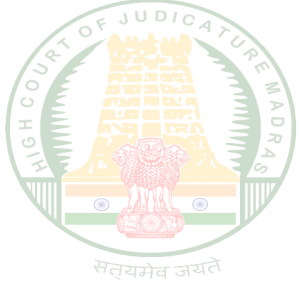
(Delivered by Dr.Anita Sumanth, J.)

Both Mr.I.Dinesh, learned Additional Government Pleader for the State and Mr.N.Prasad, learned counsel for assessee / respondent would agree that the issues arising in these cases are covered by an order passed on 27.03.2015 in TC (R) No.27 of 2015 in the case of this assessee.

2. The present tax cases arise from the transfer of an appeal filed before the Tamil Nadu Special Tribunal, Chennai post its abolition. At the hearing on 28.10.2020, the Revenue was asked to propose the questions for admission. The records however do not reveal any such petition having been filed setting out the questions to be answered.

3. Hence and by consensus expressed by both parties, the questions that have been raised and answered in TC(R) No. 27 of 2015 are framed in this case as well:-

1. Whether in the facts and circumstances of the case, the Tribunal is legally correct in having deleted the turnover pertaining to value of materials issued free of cost by the customers for manufacturing the machinery while excise duty has been levied on the entire value of the machinery including the turnover



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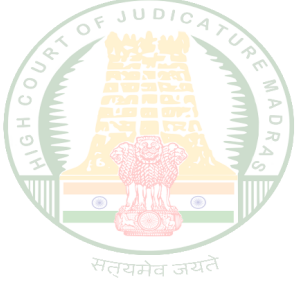


for which free supply of materials were received by the assessee?

2. Whether the order of the Tribunal in having deleted the penalty levied under Section 12(5)(iii) of the Tamil Nadu General Sales Tax Act, 1959 is legally correct while such levy of penalty had been levied for filing of incorrect and incomplete returns for omitting to include the turnover relating to free supply of materials, sale of assets and sale of exim scrips?"

4. The questions have been answered in favour of the assessee by following the ratio of the order passed in TC(R) No. 41 of 2009 filed against the common order of the Tribunal dated 27.10.2003, which is also impugned in the present case. Hence, the conclusions in TC(R) No. 41 of 2009 will apply in the present case as well and we extract the operative portion of that order:-

"As far as the assessment on turnover of Rs.3,500/- is concerned, the consistent case of the assessee is that in spite of the request made by the assessee for the materials based on which the assessment was made, till the stage of the appeal, no copy was furnished by the revenue. It is further stated by the assessee that during the assessment year under consideration there was no free supply materials for the turnover of Rs.3,500/-. Noting the above, the Tribunal held that the question of assessing the turnover on the assessee did not arise. Even otherwise, the value of the materials supplied by the customer free of cost could not be included in the value of the sale consideration since it was never sale of the parts by the assessee. The said view was taken by the Tribunal in respect of batch of assessment years and we have no information given today as to whether the State has come on appeal as against those years. Thus, going by the facts found by the Tribunal and that the Enforcement Wing had taken the figure based on the excise duty paid on the machinery manufactured, and in the absence of any further materials for the assessee to rebut, we do



not find any justifiable ground to confirm the order of the assessment. Consequently, we do not find any ground to disturb the finding of the Tribunal. The Tax Case revision is dismissed. "

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5. In light of the above, the questions are answered in favour of the assessee and these Tax Case (Revisions) are dismissed. No costs.

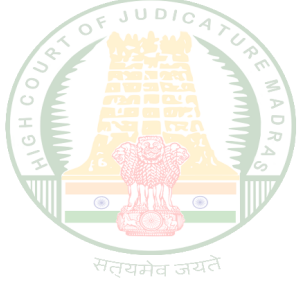
(A.S.M.,J.) (S.R.K.,J.)
01-10-2026

Index: Yes/No
Speaking order
Neutral Citation: Yes

ssm

To

The Deputy Commissioner (CT)
Chennai (East) Division, Chennai-600006.



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**DR.ANITA SUMANTH, J.
AND
S.RAVEEKUMAR, J.**

ssm

TC Nos. 10 & 16 of 2020

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