IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 23-06-2026

DELIVERED ON : 15-07-2026

CORAM

THE HON'BLE DR JUSTICE G. JAYACHANDRAN

AND

THE HON'BLE MRS.JUSTICE N. MALA

TC No. 50 of 2017
AND
TC NO. 51 OF 2017,TC NO. 52 OF 2017,TC NO. 53 OF 2017

EAST COAST CONSTRUCTION And
Industries Limited,
No.4, Moores Road, Chennai-600 006.

..Petitioner(s)

Vs

State Of Tamil Nadu,
Represented By The Deputy Commissioner(ct),
Chennai (central) Division, Chennai-600 006.

..Respondent(s)

TC No. 51 of 2017

EAST COAST CONSTRUCTION And
Industries Limited,
No.4, Moores Road, Chennai-600 006.

..Petitioner (s)

Vs

State Of Tamil Nadu,
Represented By The Deputy Commissioner(ct),
Chennai (central) Division, Chennai-600 006.

..Respondent(s)

TC No. 52 of 2017

EAST COAST CONSTRUCTION And
Industries Limited,
No.4, Moores Road, Chennai-600 006.

..Petitioner (s)

Vs

State Of Tamil Nadu,
Represented By The Deputy Commissioner(ct),
Chennai (central) Division, Chennai-600 006.

..Respondent(s)

TC No. 53 of 2017

EAST COAST CONSTRUCTION And
Industries Limited,
No.4, Moores Road, Chennai-600 006.

..Petitioner (s)

Vs

State Of Tamil Nadu,
Represented By The Deputy Commissioner(ct),
Chennai (central) Division, Chennai-600 006.

..Respondent(s)

TC No. 50 of 2017

Tax Case Revision filed under Section 38 of the Act to set aside the order passed by the Tamilnadu Sales Tax Appellate Tribunal Chennai, [Addl.bench] dt.21/02/2014 in STA.No.648/06 for the year 1999-2000.

TC No. 51 of 2017

Tax Case Revision filed under Section 38 of the Act to set aside the order passed by the Tamilnadu Sales Tax Appellate Tribunal Chennai, [Addl.bench] dt.21/02/2014 in STA.No.649/06 for the year 2000-2001.

TC No. 52 of 2017

Tax Case Revision filed under Section 38 of the Act to set aside the order passed by the Tamilnadu Sales Tax Appellate Tribunal Chennai, [Addl.bench] dt.21/02/2014 in STA.No.650/06 for the year 2002-03.

TC No. 53 of 2017

Tax Case Revision filed under Section 38 of the Act to set aside the order passed by the Tamilnadu Sales Tax Appellate Tribunal Chennai, [Addl.bench] dt.21/02/2014 in STA.No.29/2007 for the year 1998-1999.

TC No. 50 of 2017

For Petitioner(s):	M/s.Joseph Prabakar N.Senthil Kumar M.Selvakumar
For Respondent(s):	M/s.G.Dhanamadhri, Standing counsel

Common Order

N.MALA, J.,

(1) The Tax Case Revision Petitions are filed by the assessee/Dealer, challenging the common order dated 21.02.2014 of the Tamil Nadu Sales Tax Appellate Tribunal [Additional Bench], Chennai, in STA.Nos.648 to 650/2006 and 29/2007 for the Assessment Years 1999-2000, 2000-2001, 2002-2003 and 1998-1999.

(2) The revision petitioner, a Company, is a civil contractor, involved in the execution of civil contracts of various State Government Undertakings, Boards, Government Departments and other Companies. The petitioner is an assessee in the Books of Commercial Tax Office, Nungambakkam Circle, Chennai-600 006. While so, the petitioner's place of business was inspected by the Enforcement Wing of the Department on 05.03.2004 and in the inspection, it was found that the petitioner had effected purchases of building materials from outside the State and utilised them in the

construction works, attracting levy of tax on deemed sales under the Tamil Nadu General Sales Tax Act, 1959. Based on the findings of the inspection, the Assessing Officer, after issuing the pre-revision notices, for the Assessment Years, 1998-1999, 1999-2000, 2000-2001 and 2002-2003, passed the revised Assessment Orders dated 28.07.2004, 15.09.2004, 31.05.2004, and 29.06.2004, respectively on the deemed sales value of goods purchased from outside the State and utilised in the execution of Works Contract, as follows:-

	1998-1999	**1999-2000**	**2000-2001**	**2002-2003**
Turnover	Rs.3,56,731/-	Rs.9,75,968/-	Rs.10,32,967/-	Rs.69,34,959/-
Tax	Rs.31,097/-	Rs.1,07,356/-	Rs.82,605/-	Rs.8,32,195/-
Penalty	Rs.1,549/-	Rs.1,61,034/-	Rs.1,23,906/-	Rs.41,610/-

(3) Aggrieved by the aforesaid Assessment Orders of the Assessing Officer, the Dealer preferred Appeals before the Appellate Assistant Commissioner in Appeal Nos.324, 388, 401 and 263/2004 for the aforesaid Assessment Years.

(4) The Appellate Assistant Commissioner, vide common order dated 18.03.2005, allowed the appeals of the Dealer and set aside the disputed turnovers and the levy of penalties, by holding that the goods purchased from outside the State by the Dealer, were utilised in the same form in the execution of the Works Contract and further, the items were purchased

against the 'C' Forms after suffering tax at 4%. On such finding, the Appellate Assistant Commissioner set aside the disputed tax and penalty for all the Assessment Years. The Revenue, aggrieved by the orders of the Appellate Assistant Commissioner, preferred Sales Tax Appeals in STA.Nos.648 to 650/2006 and 29/2007.

(5) The Appellate Tribunal, vide common order dated 21.02.2014, allowed the Revenue's Appeals on the basis of its findings that the Dealer had failed to prove that the inter-State movement of goods was occasioned by the Works Contract entered into by them. Aggrieved by the common order of the Appellate Tribunal, the Dealer has filed the above Tax Case Revisions.

(6) At the time of admission of the Tax Cases, the following substantial questions of law were framed for consideration:-

A) Whether the Hon'ble Tribunal, being the final fact finding authority, is justified in not considering the evidence already produced by the petitioner before the assessing authority and the First Appellate Authority to prove that the movement of goods from other States into the State of Tamil Nadu were in pursuance of specific orders placed by the petitioner?

B) Whether the Hon'ble Tribunal has committed an error in law in not providing an opportunity to the petitioner to produce all material evidences before it and whether the present order passed without providing such opportunity amounts to denial of principles of natural justice and whether on this ground the *impugned is liable to be set aside?*

C) Whether the Hon'ble Tribunal has failed to see that the proper criterion for ascertaining the eligibility for deduction under Section 3-B[2][a] of the Act, is to examine if the goods were moved from other State into the State for use in Works Contract?

D) Whether the Hon'ble Tribunal is right in holding that the impugned transactions are local deemed first sales liable to tax under Section 3-B of the Act relying on the following findings of the Assessing Authority that ''the goods involved are rare goods or whether it is ordinarily available at any time in local markets or whether they are tradeable goods and not be manufactured from other States on orders there must be stipulation in the contract that the goods must be purchased from particular dealer in other States''?

E) Whether the Hon'ble Tribunal failed to note that for the purpose of Section of the Central Sales Tax Act, 1956, it is not necessary that the contract of sale must itself provide for and cause the movement of goods but such movement should be the result of a covenant in the contract or is an incident of that contract as per the principles of law laid down by the Supreme Court in ***K.G.Khosala and Co.[P] Ltd., Vs. Deputy Commissioner of Commercial Taxes, 17 STC 473 [SC]*** *and confirmed and reiterated in various decisions of the Supreme Courts and High Courts?*

(7) From the above substantial questions of law, it is seen that the core issue that arise for consideration is whether the Dealer is entitled to claim deduction under Section 3-B[2][a] of the Tamil Nadu General Sales Tax

Act, 1959, on the turnover of the inter-State purchases of materials used by it in the Works Contract. The Dealer effected inter-State purchase of goods like M.S.Condemned Rails, Ceramic Tiles, Right angle Copier, Copper Sheet, Ball bearings and Bearing Plates for use in the execution of Works Contract. If the said purchases were effected in the course of business in a routine manner unconnected with any Agreement or Works Contract, then the Dealer would not be entitled to any deduction under Section 3-B[2][a] of the Act, on the turnover of inter-State purchases used in the Works Contract. Conversely, if the inter-State purchases and the movement of the goods was occasioned by a contract, the Dealer would be entitled to claim deduction. The Assessing Officer in his order, found that the goods were tradable goods and not manufactured to specific requirements for specific usage and that the contractee did not impose any condition that the goods must be purchased from particular Dealer in other States for use in the Works Contract in this State. The Assessing Officer, on such finding, found that the provisions of Section 3-B[2][a] of the Act, were not applicable and therefore, revised the assessment and imposed penalty. The Appellate Assistant Commissioner, in his order, on the other hand, accepted the Dealer's contention that the purchased items were used in Works Contract in the form in which they were purchased and that, they did not undergo any change in form so as to emerge as new products. The Appellate Assistant Commissioner also found that the purchases were inter-State only and they were taxed at 4% under the Central Sales Tax Act, with valid 'C' Forms and therefore, they could not be taxed under the TNGST Act. On such findings, the Appellate Assistant Commissioner allowed the Appeals. The Tribunal, on appeals by the Revenue, accepted the stand of the Revenue that the Dealer failed to prove that the goods were purchased in pursuance of a Contract. The Tribunal found that there was no evidence to prove the inextricable link between the inter-State purchases and the Works Contract executed in the State of Tamil Nadu.

(8) The Tribual also concurred with the observations of the Assessing Officer that the goods purchased, namely, M.S.Condemned Rails, Ceramic Tiles, Ball bearings, Bearing Plates, Right angle copier, Copper Sheets, etc., going by their nature, were goods commonly available in the local markets and that they did not require specifications for their procurement from other States. The Tribunal, on its finding that there was no evidence to prove that the movement of goods from the other States into the State of Tamil Nadu was occasioned by a contract, rejected the Dealer's claim under Section 3-B[2][a] of the Act. The Tribunal also found that the Dealer failed to establish by evidence that the movement of goods into this State for the use in Works Contract, was based on an agreement. The Tribunal further found that the claim of the Dealer that the goods were utliised in the same form, was not the criteria to decide on the eligibility

of the Dealer to seek deduction under Section 3-B[2][a] of the Act and that the only criteria was whether the movement of the goods was for use in Works Contract occasioned by a contract. The Tribunal found that the Appellate Authority had failed to consider this vital aspect and therefore, set aside the Appellate Assistant Commissioner's order and restored the Assessing Officer's order.

(9) We have gone through the materials on record.

(10) We find that in all the three orders, there is absolutely no discussion about the Works Contract and its terms. Whereas, the Dealer claims that all materials were placed even before the Assessing Officer to establish that they were entitled to exemption under the provisions of Section 3-B[2][a] of the TNGST Act, the Tribunal, even without verifying whether the evidences were available or not, merely stated that no such evidence is placed. The Assessing Officer proceeded on the footing that there was no specific condition in the contract that the goods must be purchased from a particular Dealer in other States for use in the Works Contract. The Assessing Officer on the premise that the goods involved were not rare goods but ordinarily available in local markets, found that the goods were tradeable goods and not manufactured for specific requirements for specific usage. The foundational document based on which the Assessing Authority found that the goods were not manufactured for specific requirements for specific usage, that they were not specifically and

specially ordered goods and that no condition was imposed by the contractee to purchase goods from a particular Dealier in other States, was neither referred to nor discussed in the order.

(11) We find that the order of the Appellate Authority is equally bereft of the any particulars on the nature of the Works Contract and related documents. We find the Appellate Authority's order very cryptic, and by merely accepting the Dealer's contentions, the Assessing Officer's order was reversed. The Tribunal, in its order held that there was no evidence filed by the Dealer to prove that the movement of goods from the other States was occasioned by a contract. The Tribunal, despite the specific stand of the Dealer that all evidences for inter-State purchases pursuant to the Agreement for Works Contract were placed before the Assessing Officer, merely held that there were no evidence placed on record. In our considered view, the Tribunal ought to have either summoned the records in the light of the specific stand of the Dealer and satisfied itself about its availability or in the alternative, give an opportunity to the Dealer to file the records before it. The Tribunal being a final fact finding authority, ought to have adopted either of the above two courses. Even before us, both the parties have not placed any documents or materials so as to enable us to decide the legal issue raised before us, namely, whether the Dealer is entitled to claim deduction under Section 3-B[2][a] of the TNGST Act on the turnover of inter-State purchases of materials used by

it in the Works Contract. ***Hence, the substantial questions of law [A] and [B] are answered in favour of the Dealer.***

(12) In the view we have taken on the substantial questions of law [A] and [B], the other substantial questions of law, viz., [C], [D] and [E], are not considered.

(13) In fine, the Tax Case Revisions **are disposed of by setting aside the common order dated 21.02.2014 made in STA.Nos.648 to 650/2006 and 29/2007, by the Tamil Nadu Sales Tax Appellate Tribunal, and by remanding the matter to the Tribunal for fresh consideration of the evidence, if any placed by the Dealer before the Assessing Officer and the First Appellate Authority and if it finds that the materials are not sufficient, to provide an opportunity to the Dealer/petitioner, to produce further materials if any, to prove that the movement of goods from the other States was occasioned by contract and that, it was an inter-State transaction not leviable to local tax. The Tribunal shall pass appropriate orders on merits and in accordance with law within a period of four months from the date of receipt of a copy of this order.** No costs.

(G.J.,J.) **(N.M.,J.)**
15-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
Internet: Yes
AP

DR.G.JAYACHANDRAN J.
AND
N.MALA J.

AP

To
The Deputy Commissioner(ct),, State Of Tamil Nadu, Chennai (central) Division, Chennai-600 006.

Common Order in
TC Nos. 50 to 53 of 2017

15-07-2026