IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On: 13.07.2026	Delivered On: 24.07.2026

CORAM

THE HONOURABLE DR JUSTICE G. JAYACHANDRAN
AND
THE HONOURABLE MRS. JUSTICE N. MALA

W.A.Nos.384 & 387 of 2020
& C.M.P.Nos.6345 & 6357 of 2020

M/s.P.I.Polymers,
Rep. By Proprietrix,
#1330 Mugappair Road,
Anna Nagar West Extn.
Chennai – 600 050 … Appellant in both appeals

vs.

The Commerical Tax Officer,
Pattarawalkam Assessment Circle,
No.5, South High Court Colony,
Villivakkam, Chennai – 600 049. … Respondent in both appeals

Prayer in W.P.No.384 of 2020: Writ Appeal filed under Clause 15 of the Letters Patent Act, to set aside the order passed by the Learned Judge in W.P.No.38509 of 2015, dated 23.01.2020.

Prayer in W.P.No.387 of 2020: Writ Appeal filed under Clause 15 of the Letters Patent Act, to set aside the order passed by the Learned Judge in W.P.No.38508 of 2015, dated 23.01.2020.

For Appellant in both appeals : M/s.Aparna Nandakumar.

For Respondent in both appeals : M/s.Amirta Poongodi Dinakaran, Government Advocate

COMMON JUDGMENT

(Order of this Court made by Dr. G. Jayachandran, J.)

The genesis of these two intra-court appeals filed by the Trader – Assessee arise out of the re-assessment orders dated 13.11.2015 passed by the Commercial Tax Officer / Respondent in respect of the assessment years 2012-2013 and 2013-2014.

2. The assessee had purchased Duty Entitlement Passbook (DEPB) and imported plastic granules utilising DEPB. During the relevant period of assessment, the assessee had availed Input Tax Credit (ITC) under Section 19 of the TNVAT on the tax borne by it while purchasing Duty Entitlement Passbook (DEPB). The assessee claims that the plastic granules partly used by it for manufacturing plastic products and partly sold as granules for manufacturing other plastic products like pet-bottles, hence entitled to utilise the aforesaid Input Tax Credit for discharging tax on sale of plastic granules imported.

3. According to the assessee, as a registered dealer is entitled to ITC on the purchase of DEPB license which is used in the course of its business namely import of plastic granules. Hence, entitled to claim ITC as per the provisions of Section 19(1) of TNVAT. The purchase of DEPB license is an ancillary activity of business connected to the main activity of import and sale of plastic granules. The purchase of DEPB license was 'in the course of the business' occurring in section 21 (10) of the TNVAT Act, hence DEPB license is an input as defined under Section 2(23) of the TNVAT Act.

4. Relying on the clarification of the Commissioner of Commercial Tax *vide* proceedings No.VAT Cell/2/5640/2007/VCC 78 dated 12.03.2007, the assessee contended that there need not be one to one relation between the input (i.e.,) DEPB license and the goods (i.e.,) the plastic granules ITC sought. The terms 'sale' and 'purchase' are interchangeable, so the input tax paid on purchase of DEPB license can be adjusted on the output tax paid on sale of plastic granules which are used for manufacturing plastic products.

5. The Commercial Tax Officer held the assessee, no doubt a dealer and carrying on business as defined under TNVAT Act and eligible for ITC adjustment, provided it satisfies the requirement mandated under Section 19(2) of the Act which reads as below:-

Input tax credit shall be allowed for the purchase of goods made within the State from a registered dealer and which are for the purpose of:-

i. Re-sale by him within the State; or

ii. Use of input in manufacturing or processing of goods in the State; or

iii. Use of containers, labels and other materials for packing of goods in the State;

iv. Use as capital goods in the manufacture of taxable goods.

v. Sale in the course of Inter-State trade or commerce falling under sub-section (1) of Section 8 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956)

vi. Agency transactions by the principal within the State in the manner as may be prescribed.

6. In the instant case, the assessee had purchased DEPB license and paid tax. The said tax is not adjustable towards the sales of plastic granules imported from other countries and sold in local. Further, the clarification of the Commissioner dated 12/03/2007 in respect of fabrics manufactured and exported from the raw material (yarn) is not applicable to the facts of the case, since the Commissioner *vide* proceedings dated 25.07.2007 had issued clarification that no input credit is eligible on purchase of DEPB license under section 19(2) of the TNVAT Act, as they were purchased as plastic granules from abroad and sold as plastic granules in local. Hence, not entitled for ITC.

7. Notices for assessment on demand of tax and notice of penalty for the assessment years 2012-13 and 2013-14 were issued separately. For the AY 2012-13, notice proposed tax of Rs.3,94,100/- and penalty of Rs 1,97,050/- being 50% of the tax due. For the Assessment Year 2013-2014, the notice proposed tax of Rs.3,70,447/- and penalty of Rs.1,85,224/- were issued to the assessee on 13/11/2015.

8. The assessee filed W.P.No.38508 of 2015 challenging the notice issued for the assessment year 2012-2013 and W.P,No.38509 of 2015 challenging the notice issued for the assessment year 2013-2014.

9. The Learned Judge, on considering the challenge to the re-assessment order passed by the respondent, dismissed the writ petitions holding that he was bound by the judgment of the Division Bench of this Court rendered in ***Sha Kantilal Jayanthilal vs. State of Tamil Nadu, reported in 2016 (339)***

ELT 520 (Mad) has given a finding that the rate of tax mentioned in the First schedule is not applicable in respect of purchase of DEPB. However, he made certain observations that the view expressed in the above judgment requires re-look.

10. Being aggrieved by the dismissal of the writ petitions challenging the re-assessment, the above two appeals were filed for consideration by the Division Bench.

11. The Learned Counsel appearing for the appellants contended that the order of the Learned Single Judge confirming the impugned order of re-assessment passed by the respondent suffers infirmity. The observations made by the Court do not synchronize with the conclusion. Particularly, it is contended that, after giving categorical finding that the initiation of assessment proceedings is not ill-conceived, the Learned Single Judge ought to have struck down the re-assessment order singularly on the ground. Further, the Learned Single Judge, having held that the DEPB license is "goods" that fall within Section 2(21) of the TNVAT Act, 2006, in the light of the law declared by the Hon'ble Supreme Court in ***Yasha Overseas v. Commissioner of Sales Tax***

(2008) 17 VST 182 (SC). There is no logical reason to dismiss the writ petitions by following the judgment of this Court which, even according to the writ petitioner, is *'per incuriam'*.

12. The Learned Judge, having given a categorical finding that the DEPB license falls under Entry 70 of Part B of I Schedule, taxable at 5% and entitled to input tax credit in terms of Section 19(1) of the TNVAT and after endorsing the contention of the assessee that one-to-one correlation between the credit availed and its utilization is not required. The Learned Judge erred in dismissing the Writ Petitions instead of allowing the same. The Learned Judge, after being convinced that Section 3(3) of the TNVAT Act, 2006 read with Rule 10 of the TNVAT Rules, 2007, does not contemplate one-to-one correlation and utilization of credit, ought not to have denied the benefit to the assessee merely because the Division Bench in ***M/s.Sha Kantilal Jayantilal vs. The State of Tamil Nadu 2016 (339) ELT 520 (Mad)*** had held otherwise.

13. The Learned Counsel appearing for the appellants drew our attention to the observations of the Learned Judge in his order that the Division Bench in ***M/s.Sha Kantilal Jayantilal vs. The State of Tamil Nadu 2016 (339)***

ELT 520 (Mad) had failed to note the avowed object of the TNVAT Act, 2006, which allow utilization of input credit to a dealer to reduce the cascading effect of tax on the final products. Hence, the said judgment ought not to have taken as a binding precedent, particularly in view of the dictum of the Hon'ble Supreme Court rendered in ***A.R.Antulay v. RS Nayak (1988) 2 SCC 602*** and ***N.Bhargavan Pillai v. State of Kerala (AIR 2004 SC 2317)*** and particularly when the decisions of other High Courts were in favour of the assessee, holding that DEPB license is intangible goods and ITC can be availed by the assessee in appropriate cases even without one-to-one correlation.

14. Per contra, the Learned Government Advocate appearing for the respondent submitted that the conclusion of the Learned Single Judge dismissing the appeal needs no interference, though certain observations made by the Learned Single Judge cast cloud over the assessment order passed by the respondent. The judgment rendered by the Division Bench of this Court in ***M/s.Sha Kantilal Jayantilal vs. The State of Tamil Nadu, reported in 2016 (339) ELT 520 (Mad)*** and followed by the Learned Single Judge, does not carry any iota of infirmity. It is inconsonance with the interpretation of the Hon'ble Supreme Court in respect of the term "input" and "input tax credit," applying process-and-use test. The input and the goods manufactured are used in the process of manufacture must have nexus to each other, though they may not be one-to-one correlation. The DEPB license, though fall under the definition of tangible goods that by itself will not enure to the benefit of ITC for the import of plastic granules and sold as plastic granules to the manufactures, without establishing the nexus between the input and the goods manufactured. Hence, the assessee is not entitled for Input Tax Credit.

15. The Learned Government Advocate appearing for the respondent submitted that the Division Bench of this Court in ***M/s.Sha Kantilal Jayantilal*** *(cited supra)* had dealt with the claim of input credit on the purchase of DEPB license viz., Section 19(1) of the TNVAT Act and had denied credit on the ground that the assessee failed to satisfy the conditions enumerated under the said Section. The ratio laid down squarely applies to the case of the appellant. The detailed discussion about the provisions of law and the object of TNVAT Act been fully understood and discussed in the said judgment, which is binding precedent.

16. Perusal of Section 19(2) of the TNVAT Act and the conditions enumerated under the Section for entitlement to input tax credit, what emanates is that though the DEPB license is "goods" as defined under the Act, the view expressed that the term "goods," without any prefix, makes a difference whether the DEPB licence, which is a tangible goods, will fall within the expression "goods" as found in Section 19(1) of TNVAT Act.

17. Paragraph No.34 of the judgment alone been considered by the Learned Single Judge to arrive at the conclusion that ***M/s.Sha Kantilal Jayantilal*** *(cited supra)* requires re-look.

18. However, reading the judgment, particularly Paragraph No.27 onwards, would make it clear that the judgment rendered in *M/s.Sha Kantilal Jayantilal case,* after considering the decision of the Hon'ble Supreme Court on input tax credit qua DEPB licence, and the principle of double benefit. Further claim of ITC without actual payment by utilizing the DEPB license been point for holding in favour of the Revenue.

19. The dictum laid in ***M/s.Sha Kantilal Jayantilal*** *(cited supra)* squarely covers the facts of the case in hand. Though, the Learned Single Judge had expressed reservations about the reasoning of the decision, in view of this Court, there is no infirmity in the decision rendered by the Division Bench in ***M/s.Sha Kantilal Jayantilal*** *(cited supra)*. After deep analysis of the TNVAT Act, particularly Section 19 of TNVAT Act, which provides for ITC, the Division Bench has held as below:-

> ***14.*** *Though a variety of levies are contemplated under the Act, the Act seeks to protect a registered dealer from double taxation. The Act seeks to give this protection in the form of what is known "input-tax credit" under section 19. Instead of extracting section 19 in entirety, at the cost of few more pages, we would better summarise the scheme of section 19, which provides for input-tax credit, in simple terms, without technical jargons as follows :*
>
> > *(i) Sub-section (1) of section 19 entitles a registered dealer to input- tax credit, of the amount of tax paid or payable under the Act, to the seller, on the purchases of taxable goods specified in the First Schedule, subject to the condition that the registered dealer establishes that the tax on such purchases had actually been paid by him in the manner prescribed.*

(ii) Sub-section (2) stipulates that input-tax credit should be allowed for the purchase of goods made within the State from a registered dealer, if such purchase was for any one of the 6 purposes indicated in clauses (i) to (vi) of sub-section (2).

(iii) Sub-section (3) provides for input-tax credit, in respect of purchases of capital goods, whenever they are used in the manufacture of taxable goods.

(iv) Sub-section (4) allows input-tax credit on tax paid or payable in the State on the purchase of goods in excess of a prescribed percentage, if the purchases are intended either for transfer to a place outside the State otherwise than by way of sale or for use in the manufacture of other goods and transferred to a place outside the State otherwise than by way of sale.

(v) Sub-sections (5) and (6) stipulate four contingencies, under which, no input-tax credit can be allowed. They are : (a) sale of goods exempted under section 15 ; (b) goods brought into the State from outside the State ; (c) purchase of goods sold as such or used in the manufacture of other goods and sold in the course of inter-State trade or commerce; and (d)purchase of capital goods

used exclusively in the manufacture of goods exempted under section 15.

(vi) Sub-sections (7), (8), (9) and (10) of section 19 list out the circumstances, under which, a registered dealer will not be entitled to input-tax credit.

(vii) Sub-section (11) indicates the period, within which, a registered dealer should make a claim for input-tax credit.

(viii) Sub-section (12) indicates the contingencies, when a credit availed on inputs would get reversed.

(ix) Sub-section (13) speaks about the denial of input-tax credit to a registered dealer, who issues an invoice or bill or cash memo without actually entering into a transaction of sale, with a view to defraud the Government Revenue.

(x) Sub-section (14) provides for transfer of input-tax credit, whenever the business of a registered dealer is transferred on account of change of ownership due to sale, merger or amalgamation, etc.

(xi) Sub-section (15) speaks about the consequences of cancellation of the certificate of registration of the selling dealer.

> *(xii) Sub-section (16) speaks about the power of the assessing authority to revoke the input-tax credit, under certain circumstances.*
>
> *(xiii) Sub-section (17) deals with the contingencies, when the input- tax credit determined by the assessing authority for a particular year exceeds the tax liability for that year.*
>
> *(xiv) Sub-section (18) speaks about the carrying forward of the excess input-tax credit to the next year.*
>
> *(xv) Sub-section (19) deals with the reversal of input-tax credit, whenever goods remain unsold at the time of closure of the business.*
>
> *(xvi) Sub-section (20) deals with one more contingency, when the input-tax credit can be reversed.*

***15.** Therefore, it appears that section 19 was conceived by the Legislature to be a complete code in itself, as it speaks of (i) entitlement to tax credit, (ii) the transactions on which, the entitlement would arise, (iii) the persons, who are entitled to tax credit, (iv) the transactions on which, there is no entitlement, (v) persons, who are not entitled to tax credit, (vi) the manner and the period, within which, a claim for credit is to be made, (vii) the circumstances, under which, the credit availed of* *could be reversed and the authority, who is competent to reverse the credit, (viii) the circumstances, under which, transfer of input-tax credit could be allowed, (ix) the circumstances, under which, the credit could be carried over to the next year and so on and so forth.*

16. *From the scheme of section 19(1), it appears that to become eligible for input-tax credit, the following conditions should be satisfied by a person :*

(i) he should be a registered dealer;
(ii) he must have paid or become obliged to pay a tax under this Act, to the seller on the purchase of taxable goods; and
(iii) such taxable goods, on the purchase of which, he paid or became liable to pay tax under the Act, are also specified in the First Schedule.

20. On analysis of the scope of Section 19, the facts, which are similar to the case in hand, the Division Bench arrived at the following conclusion:-

17. *Keeping in mind the scheme of section 19 as enumerated above, if we come back to the case on hand, it is seen that what the petitioner claims is an input-tax credit on the amount of duty paid for the purchase of a DEPB licence. The claim of the petitioner is that a DEPB licence is also a "goods" within the meaning of the expression "goods" under section 2(21), which reads as follows :*

> *"2(21) 'goods' means all kinds of movable property (other than newspapers, actionable claims, stocks and shares and securities) and includes all materials, commodities and articles including the goods (as goods or in some other form) involved in the execution of works contract or those goods to be used in the fitting out, improvement or repair of movable property; and all growing crops, grass or things attached to, or forming part of the land which are agreed to be severed before sale or under the contract of sale;"*

18. *According to the petitioner, the DEPB licences purchased by him not only constitute goods within the purview of section 2(21), but also constitute "input" within the meaning of the expression under section 2(23) and constitute "input tax" within the meaning of section 2(24). Section 2(23) and 2(24) read as follows:*

> *"2(23) 'input' means any goods including capital goods purchased by a dealer in the course of his business ;*
>
> *2(24) 'input tax' means the tax paid or payable under this Act by a registered dealer to another registered dealer on the purchase of goods including capital goods in the course of business;"*

19. On the basis of the above definitions and on the basis of the charging section namely section 3(3), it is contended by the learned counsel for the petitioner that the duty paid on DEPB licences, are liable to be given credit to. Reliance is placed on the language of section 3(3), which reads as follows :

> *"3(3) The tax payable under sub-section (2) by a registered dealer shall be reduced, in the manner prescribed, to the extent of tax paid on his purchase of goods specified in Part B or Part C of the First Schedule, inside the State, to the registered dealer, who sold the goods to him."*

20. In support of his contention that DEPB licences constitute goods within the meaning of the Act, the learned counsel for the petitioner relies upon the decision of the Supreme Court in Yasha Overseas v. Commissioner of Sales Tax [2008] 17 VST 182 (SC).

21. How DEPS though be tangible goods, but not entitled for ITC is explained by the Division Bench in the following Paragraphs by tracing the march of law on this issue.

21. We have carefully considered the above submissions.

22. Before considering the issue as to whether DEPB licences constitute "goods" within the meaning of *section 2(21) of the TNVAT Act, 2006, it may be useful to look at the ratio decidendi of the decision of the Supreme Court in Yasha Overseas [2008] 17 VST 182 (SC). The said decision arose under interesting circumstances. In H. Anraj v. Government of Tamil Nadu [1986] 61 STC 165 (SC) ; (1986) 1 SCC 414, the Supreme Court held that lottery tickets constituted "goods" within the meaning of the expression "goods" as given in the Tamil Nadu General Sales tax Act, 1959 and the Bengal Finance (Sales Tax) Act, 1941.*

***23**. After 10 years of the decision in H. Anraj [1986] 61 STC 165 (SC) ; (1986) 1 SCC 414, another question arose before the Supreme Court in Vikas Sales Corporation v. Commissioner of Commercial Taxes [1996] 102STC 106 (SC) ; (1996) 4 SCC 431, as to whether a replenishment licence (REP licence) granted under the 1992-97 export-import policy could be taken to be goods under the Tamil Nadu, Karnataka and Kerala General Sales tax Acts. After referring to the definition of the expression "goods" as given in section 2(7) of the Sale of Goods Act, 1930, the definition of the expression "movable property" under the General Clauses Act and the definition of the expression "goods" under the Central as well as the State sales tax laws, the Supreme Court held in Vikas Sales Corporation [1996] 102 STC 106 (SC) ; (1996) 4 SCC 431 that REP licences are neither chose- in-actions nor actionable claims, but constituted goods that* *have an inherent value and also traded as such, independent of and unrelated to the goods that can be imported on their basis. Consequently, the court held that REP licences were goods.*

***24.** But, in Sunrise Associates v. Government of NCT of Delhi [2006] 3 VST 151 (SC) ; [2006] 145 STC 576 (SC) ; (2006) 5 SCC 603, a Constitution Bench of the Supreme Court overruled the decision in H. Anraj [1986] 61STC 165 (SC) ; (1986) 1 SCC 414 and held that the sale of lottery ticket was not a sale of goods. When the Constitution Bench was considering the correctness of the decision in H. Anraj [1986] 61 STC 165 (SC) ; (1986) 1 SCC 414, with reference to the decision in Vikas Sales Corporation [1996] 102 STC 106 (SC) ; (1996) 4 SCC 431, an issue was raised by the State of Maharashtra as to whether DEPB licences could constitute goods attracting sales tax under the Bombay Sales tax Act, 1959 or not. But, the Constitution Bench refused to go into the same.*

***25.** Therefore, a question arose in Yasha Overseas [2008] 17 VST 182 (SC) as to whether the three-Judge Bench decision in Vikas Sales Corporation [1996] 102 STC 106 (SC) ; (1996) 4 SCC 431, [holding that the transfer/sale of an import licence called replenishment licence (REP licence) granted under the 1992-97 exim policy was exigible to sales tax] stood impliedly overruled by the Constitution Bench decision in Sunrise Associates*

[2006] 3 VST 151 (SC) ; [2006] 145 STC 576 (SC) ; (2006) 5 SCC 603 wherein it was held that lottery tickets were actionable claims and were, therefore, excluded from the definition of "goods" under the Sales tax Act.

***26.** After analysing in great detail, the decisions in H. Anraj [1986] 61 STC 165 (SC) ; (1986) 1 SCC 414, Vikas Sales Corporation [1996] 102 STC 106 (SC) ; (1996) 4 SCC 431 and Sunrise Associates [2006] 3 VST 151 (SC) ; [2006] 145 STC 576 (SC) ; (2006) 5 SCC 603, the Supreme Court came to the conclusion in Yasha Overseas [2008] 17 VST 182 (SC) that the decision in Sunrise Associates [2006] 3 VST 151 (SC) ; [2006] 145 STC 576 (SC) ; (2006) 5 SCC 603 did not affect the position in so far as REP licences are concerned and that the decision in Vikas Sales Corporation [1996] 102 STC 106 (SC) ; (1996) 4 SCC 431 reflected the correct legal position. Having arrived at such a conclusion with regard to REP licences, the court then went on to consider whether the rationale applied in respect of REP licences could be equally applied in the case of DEPB licences.*

***27.** It was contended on behalf of the assessees in Yasha Overseas [2008] 17VST 182 (SC) that the transfer of a DEPB licence was nothing more than a mere transfer of a credit in the pass book and that therefore, such a credit could never be called goods under the sales tax laws. Alternatively, it was contended that the sale of*

DEPB licence involved a mere transfer of the right to claim credit on a future import and that therefore, it could at the most be an actionable claim. But, both the contentions were rejected and the Supreme Court held that like REP licences, a DEPB licence also has its intrinsic value and that a purchaser buys something for its value. Eventually, the Supreme Court held that DEPB licences are goods within the meaning of the sales tax laws.

***28.** Therefore, Mr. V. Sundareswaran, learned counsel for the petitioner, is basically right in contending that DEPB licences are goods. But, the mere fact that these licences constitute goods within the meaning of section 2(21) of the Tamil Nadu Act 32 of 2006, is not sufficient to make the petitioner entitled to input-tax credit.*

***29.** The Act not merely defines the expression "goods". The Act defines the expression "capital goods" under section 2(11). It also defines the expression "declared goods" under section 2(16) and it defines the expression "exempted goods" under section 2(20). Therefore, the expression "goods" appearing in every provision has to be understood in the context in which the expression is used and the adjective along with which, it is used. It is relevant to point out that the charging section namely section 3 predominantly uses the expression "goods" without any adjective, whether it be in relation to sale or purchase.*

__30.__ But, a look at section 19(1), which provides for input-tax credit shows that the entitlement for such credit is restricted only to the amount of tax paid or payable under the Act by the registered dealer to the seller on his purchases of taxable goods specified in the First Schedule. Therefore, unless the claim for input-tax credit relates to the tax paid or payable on the purchase of taxable goods specified in the First Schedule, it is not possible to grant credit.

__31.__ In so far as the First Schedule is concerned, the same is divided into three parts namely Part A, Part B and Part C. While Part A gives a list of goods, which are taxable at the rate of one per cent., Part B gives a list of goods, which are taxable at the rate of five per cent. Part C gives a list of items, which are taxable at higher rates. We are not concerned in this case with the rates.

__32.__ But, it can be seen from the First Schedule that DEPB licences are not included in any of the parts, namely, Part A, Part B and Part C. Therefore, the goods in relation to which, the petitioner claims input-tax credit namely DEPB licences, despite coming within the purview of the expression "goods" under section 2(21), do not constitute goods specified in the First Schedule. Hence, section 19(1) has no application.

33. DEPB licences do not even fall under any of the categories mentioned in section 19(2). The case of the petitioner does not even fall under sub- section (3) or sub-section (4) of section 19. Therefore, our answer to the first question of law would be that the Department was right in denying the benefit of input-tax credit in respect of the duty paid by the petitioner on the purchase of DEPB licences, despite the fact that these licences constitute goods within the meaning of section 2(21).

34. Despite the fact that DEPB licences are goods, they are certainly different and distinct from the goods that can be imported on the strength of those licences. These licences confer a right upon the licensees to import goods at some concession. It is only the goods that are imported on the strength of these DEPB licences, that may fall within the ambit of section 19(1) provided a tax is payable or paid under the Tamil Nadu Value Added tax Act, 2006 on those goods and those goods are also listed in the First Schedule to the Act. (emphasis added)

39. But, the entitlement of a registered dealer to input-tax credit, does not arise solely out of sub-section (2) of section 19. It arises actually out of sub- section (1) of section 19. But, since sub-section (1) covers all types of purchases of all types of goods specified in the First Schedule by all types of registered dealers, it is generic in nature. Out of such generic entitlement stipulated in sub-section (1), the statute carves out—

(i) certain purchases made for the purposes specified in sub-section (2) within the State;

(ii) certain purchases of capital goods under sub-section (3) ;

(iii) certain purchases, made for purposes indicated in sub-section (4), etc.

40. *Therefore, entitlement, non-entitlement, etc., are covered with reference to specifics in the other sub-sections of section 19. It does not mean that the very entitlement to credit could be traced only to sub-sections (2) to (4) and the non-entitlement could be traced to sub-sections (5) to (10). If a dealer satisfies the essential conditions stipulated in sub-section (1), he is entitled to credit. Therefore, we are of the considered view that sub-section (2) of section 19 is enumerative and not exhaustive." (Emphasis added)*

22. We have taken the privilege of extracting substantial portions of the *M/s.Sha Kantilal Jayantilal* judgment to dissect and to find out if it is 'per incuriam". The judgment of this Court in *M/s.Sha Kantilal Jayantilal case (cited supra)* has appropriately decided the scope of Input Tax Credit under Section 19 of the TNVAT Act, qua Duty Entitlement Passbook (DEPB), after considering the intent of the TNVAT Act, the impression caused in the impugned order as if the *M/s.Sha Kantilal Jayantilal* judgment is "per incuriam" is not correct. Hence, we find no reason to revisit the judgment of the Learned Single Judge.

23. Accordingly, these Writ Appeal Nos.384 & 387 of 2020 are dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous petitions are closed.

(**Dr**. **G.JAYACHANDRAN**, **J.**) & (**N. MALA, J.**)

24-07-2026

Index :Yes.
Neutral Citation :Yes/No.
Internet :Yes.
bsm
To,
1. The Commerical Tax Officer,
Pattarawalkam Assessment Circle,
No.5, South High Court Colony,
Villivakkam, Chennai – 600 049.

Dr. G.JAYACHANDRAN, J.
&
N. MALA, J.
bsm

Pre-Delivery common judgment made in
W.A.Nos.384 & 387 of 2020

Judgment delivered on
24-07-2026