IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-07-2026

CORAM

THE HON'BLE DR JUSTICE G. JAYACHANDRAN
AND
THE HON'BLE MRS.JUSTICE N. MALA

Tax Case No. 19 of 2026
and
C.M.P.No. 15471 of 2026

Paharpur Cooling Towers Ltd
Represented by its Authorized Signatory,
Manikandan Sivakumar
No.45, 1st Floor, Ashok Towers,
K.B.Dasan Road, Teynampet,
Chennai - 600018

..Petitioner

Vs

The Assistant Commissioner (ST)
Salem Rural Assessment Circle,
Pitchards Road,
Salem 636 007

..Respondent

PRAYER: Tax Case is filed under Section 60(1) of the Tamil Nadu Value Added Tax Act, 2006, to set-aside the Order dated 01.09.2025 in STA No. 690/2022 on the file of the Tamil Nadu Sales Tax Appellate Tribunal Additional Bench, Coimbatore-18.

For Petitioner: Mr.Harish P B

For Respondent: Mr.R.Sethuprabhakaran
Standing Counsel

ORDER

(*Order of the Court was made by Dr.G.Jayachandran J.*)

This Tax Case is directed against the order passed by the Tamil Nadu States Tax Appellate Tribunal. The short point for consideration is whether, under the facts and circumstances of the case, the order of the Tribunal confirming the imposition of penalty under Section 27(3)(b) of the TNVAT Act, by reversing the findings of the Appellate Authority is legally sustainable when there is no allegation of wilful suppression of turnover in the initial assessment order.

2. The learned counsel appearing for the petitioner/assessee submitted that the alleged suppression of turnover was duly reflected in Form-WW submitted by the assessee even before the authorities conducted an inspection of the accounts. However, the Assessing Officer presumed wilful suppression merely because Form WW was filed after the expiry of the period prescribed for deemed assessment. The learned counsel further submitted that since the actual turnover was disclosed in Form -WW, any escaped turnover cannot be termed as a 'wilful suppression of turnover'. To support his contention, he drew attention to Section 27 of the TNVAT Act, emphasizing that the expression "wilfully suppressed" is a mandatory statutory pre-condition for invoking penalty provisions.

3. The learned Standing Counsel appearing for the Department submitted that mere disclosure of the turnover in Form WW does not absolve the assessee, as the assessee failed to reflect the said turnover in the monthly returns filed throughout the financial year. He further submitted that the turnover was not brought to tax at the time of deemed assessment and the discrepancies were noted only after an inspection of the records by the authorities. The escaped turnover was a direct result of wilful suppression. He also submitted that though the expression was not mentioned in the assessment order, the intention of the assessee to suppress the turnover and evade tax was clearly drawn out in the assessment order itself.

4. The Appellate Authority, citing the mere lack of repetition of the expression 'wilful suppression' in the assessment order, set aside the findings of the Assessing Officer, which led to the appeal by the Department before the Tribunal. The Tribunal, taking note of the omission by the Appellate Authority and its erroneous findings regarding suppression of facts, confirmed the order of the Assessing Officer imposing the penalty.

5. When the matter came up for consideration along with an application for condonation of delay, we thought fit to decide the issue after giving notice to the Department. Accordingly, the delay was condoned and directed the Registry to number the tax case. Thus, the matter has been taken up for final consideration.

6. We have heard the submissions of the learned counsels and perused the records.

7. We are surprised by the reasoning of the Appellate Authority. Though the imposition of penalty is mandatory in cases of wilful suppression of turnover, the Appellate Authority failed to see that the record itself makes out a case of wilful suppression. Mere replication of the expression wilful suppression is not necessary, even if the specific expression is not found in the assessment order, if the material on record clearly discloses wilful suppression, then a penalty imposed by invoking Section 27(3)(b) of the Act, cannot be questioned.

8. In this case, the petitioner/assessee despite showing the turnover in Form-WW, admittedly and conveniently omitted it from the monthly returns. The assessment went through the process of deemed assessment for the assessment year 2012-2013, which was completed in the year 2014. Thereafter, an inspection by the authorities revealed discrepancies between the Form-WW and the monthly returns. The fact that Form-WW was filed after the due date for deemed assessment and that turnover was not truly reflected in the monthly returns, clearly proves intention of the assessee to suppress the turnover. The omission in the monthly returns was never explained by the assessee throughout the proceedings.

9. Under such circumstances, the Assessing Officer rightly imposed a penalty as per the grading under Section 27(3) of the Act. While so, the Appellate Authority reversed these findings on the ground that there was no wilfulness or mens rea on the part of the assessee in suppressing the turnover. This finding runs contrary to the documents filed by the assessee himself, particularly Form-WW and the monthly returns. Therefore, the order of the Assessing Officer is to be upheld and the order of the Appellate Authority is set aside.

10. In the result, this Tax Case is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

(Dr.G.J.,J.) (N.M.,J.)
27-07-2026

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

rpl

To

The Assistant Commissioner (ST)
Salem Rural Assessment Circle,
Pitchards Road,
Salem 636 007.

DR.G.JAYACHANDRAN J.
and
N.MALA J.

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