IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-08-2026

CORAM

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

TC No. 16 of 2026
and
CMP No. 13335 of 2026,
and
WP Nos.22588, 22591, 22592, 22590, 22594 & 22595 of 2026

M/s.Bharat Heavy Electricals Limited
Represented by its Head of Indirect Taxation
Mrs. D. Jessila T. Rani,
Kailasapuram,
Trichy 14.

..Petitioner

Vs

The State of Tamil Nadu
Represented by Assistant Commissioner,
Thiruverumbur Assessment Circle,
Trichy.

..Respondent

WP Nos.22588, 22591, 22592, 22590, 22594 & 22595 of 2026

M/s. Bharat Heavy Electricals Limited
Represented by its Head of Indirect Taxation
Mrs. D. Jessila T. Rani,
Kailasapuram, Trichy 14. ..Petitioner

Vs

1. The Assistant Commissioner (CT),
   Thiruverumbur Assessment Circle,
   Trichy.

2. Appellate Deputy Commissioner (CT)
   Trichy

3. The Tamil Nadu Sales Tax Appellate Tribunal
   (Additional Bench), Coimbatore 18.

..Respondents

PRAYER in TC No. 16 of 2026: Tax Case (Revision) is filed under Section 60(1) of TNVAT Act, 2006, to revise the order of the Sales Tax Appellate Tribunal Additional Bench, Coimbatore-18 in C.T.A. No.53 of 2022, dated 22.07.2025.

WP No. 22588 of 2026

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 3rd respondent herein in CTMP 53 of 2025 dated 10.12.2025, arising out of the order of the 3rd Respondent herein in CTA 52 of 2022 dated 22.07.2025, quash the same, while directing the 3rd Respondent to re-dispose the application for rectification filed by the petitioner on 25.08.2025.

WP No. 22591 of 2026

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records on the files of the 3rd Respondent herein in CTMP 55 of 2025 dated 10.12.2025, arising out of the order of the 3rd Respondent herein in CTA 54 of 2022 dated 22.07.2025 , quash the same, while directing the 3rd Respondent to re - dispose the application for rectification filed by the Petitioners on 25.08.2025.

WP No. 22592 of 2026

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records on the files of the 3rd Respondent herein in CTMP 54 of 2025 dated10.12.2025, arising out of the order of the 3rd Respondent herein in CTA 53 of 2022 dated 22.07.2025 , quash the same, while directing the 3rd Respondent to re - dispose the application for rectification filed by the Petitioners on 25.08.2025 or pass.

WP No. 22590 of 2026

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records on the files of the 3rd Respondent herein in CTMP 56 of 2025 dated10.12.2025, arising out of the order of the 3rd Respondent herein in CTA 55 of 2022 dated 22.07.2025 , quash the same, while directing the 3rd Respondent to re - dispose the application for rectification filed by the Petitioners on 25.08.2025or pass.

WP No. 22594 of 2026

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records on the files of the 3rd Respondent herein in CTMP 57 of 2025 dated 10.12.2025, arising out of the order of the 3rd Respondent herein in CTA 56 of 2022 dated 22.07.2025, quash the same, while directing the 3rd Respondent to re - dispose the application for rectification filed by the Petitioners on 25.08.2025 or pass.

WP No. 22595 of 2026

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records on the files of the 3rd Respondent herein in CTMP 58 of 2025 dated10.12.2025, arising out of the order of the 3rd Respondent herein in CTA 57 of 2022 dated 22.07.2025, quash the same, while directing the 3rd Respondent to re - dispose the application for rectification filed by the Petitioners on 25.08.2025 or pass.

For Petitioner in all cases:	Mr.N.Prasad
For Respondents in all cases:	Mr.R.Sethuprabhakaran Government Advocate

COMMON ORDER

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

M/s.Bharat Heavy Electricals Limited (BHEL), a Government of India undertaking, being aggrieved by the assessment orders passed under the CST Act, 1956, in respect of transit sales for the assessment years 2012-13, 2013-14, 2014-15, 2015-16, 2016-17 & 2017-18, preferred appeals before the Appellate Authority raising several grounds to challenge the disallowance of credit notes issued in connection with the said transit sales.

2. The Appellate Authority, vide proceedings dated 22.01.2016, passed a common order considering the nature of the grounds of appeal raised against the assessment order for each assessment year. In the light of Section 6(2) of the CST Act and other relevant provisions, the Appellate Authority remanded the matter for a fresh decision, granting liberty to the assessee to produce "C" Forms and relevant declarations before the Assessing Officer for fresh consideration.

3. The Appellate Authority, after tabulating the reasons cited for the credit notes by the assessee and the counter reasons for the Assessing Officer, ultimately issued an order of remand for fresh disposal. This order extended liberty to the assessee to produce all relevant documents for fresh consideration by the Assessing Officer. In the course of arriving at a final decision for fresh assessment, the Appellate Authority made certain observations in respect of all the grounds raised by the assessee. Some of these observations are apparently adverse to the interest of the assessee.

4. Aggrieved by the order of the Appellate Authority, the assessee preferred an appeal before the Sales Tax Appellate Tribunal. The Department raised a preliminary objection regarding the maintainability of the appeal before the Tribunal pointing to the third proviso to Section 58(1)(b) of the Tamil Nadu Value Added Tax, 2006. This proviso creates a statutory bar preventing the Appellate Tribunal from entertaining an appeal when an assessment order has been set aside and remanded back to the Assessing Officer for a fresh assessment.

5. The learned counsel appearing for the revision petitioner/assessee primarily contended that the order of the Tribunal dismissing the appeal on the ground of maintainability is erroneous. He argued that the reasons stated by the Appellate Authority for remanding the assessment do not fall within the meaning of "setting aside" an order, but represent a simple remand. He further contended that the adverse observations made by the Appellate Authority would directly prejudice the assessing authority, if it is directed to make a fresh assessment. He further submitted that in cases where multiple and complex reliefs are granted by the Appellate Authority, even if a portion of the assessment is set aside and remanded back for fresh assessment, the embargo under the third proviso to Section 58(1) of the Act will not apply. Consequently, the Tribunal has to necessarily entertain the appeal and decide it on merits.

6. To buttress his submissions, the learned counsel for the revision petitioner relied upon a judgment of the Division Bench of this Court rendered in ***Dr.Reddy's Laboratories Vs. State of Tamil Nadu***, wherein the Division Bench, while discussing the scope of Section 58 which confers appellate powers on the Appellate Tribunal, observed as follows:-

> *"8.Section 58 of the Act deals with appeal to appellate Tribunal. The impugned order having been passed by the Appellate Deputy Commissioner (CT) under Section 51(3) in an appealable order. The petitioners have been non suited by referring to the third proviso under Section 58(1) which reads as follows? Provided also that no appeal shall be admitted against an order, passed by the Appellate (Deputy) Commissioner under Section 51 or by the Appellate (Joint) Commissioner under Section 52, as the case may be, setting aside the assessment and directing the assessing authority to make a fresh assessment.?*

9.In terms of the above proviso, no appeal shall be admitted against an order passed by the Appellate Deputy Commissioner under Section 51 or by the appellate Joint Commissioner under Section 52 as the case may be setting aside the assessment and directing the assessing authority to make a fresh assessment. Therefore, the embargo placed under the said proviso would operate when the appellate authority exercising power either under Section 51 or 52 sets aside the assessment order and remands the matter for fresh assessment.

10.In these tax cases, it has to be seen as to whether the appellate authority had set aside the order of assessment and directed the assessing officer to make a fresh assessment. On a reading of the order passed by the appellate authority dated 16.08.2016 especially from page 7 of the order, we find that the appellate authority has discussed the merits of the matter and in page 9 of the order has given four reasons as to why the case of the petitioner cannot be accepted. Thus, the decision taken by the appellate authority is on the merits of the matter and the assessment order stood confirmed by the said order and it was not set aside. Though in the last few lines of the order passed by the appellate authority, he states that the appeals are remanded back for fresh disposal, the remand is only on one aspect i.e. with regard to the equal time addition. Though the order states that *there are two directions in effect, there is only one direction regarding the equal time addition. The other issues are all findings rendered by the appellate authority on the merits of the matter. Therefore, there ws no direction to the assessing officer to redo the assessment afresh by setting aside the assessment order. Therefore, in our considered view the Tribunal erred in not entertaining the second appeals filed by the petitioner challenging the order passed by the Appellate Deputy Commissioner dated 16.08.2016. The facts of the case clearly show that the third proviso under Section 58(1) has no application to the cases on hand. Thus for the above reasons, the impugned orders call for interference."*

7. The learned counsel in addition also submitted that despite written submissions being filed to counter the Department's preliminary objection regarding maintainability of the appeal, the Tribunal completely ignored the said written submissions and proceeded to pass the impugned order dated 22.07.2025. Being aggrieved by the same, alongside filing of the present Tax Case Revision, the assessee also filed a rectification petition before the Tribunal pointing out the non-consideration of the written submissions regarding the maintainability of the appeal. However, the rectification application has also been dismissed. Hence, separate writ petitions had been filed for each assessment year challenging the dismissal of the rectification applications and those writ petitions are WP Nos.22588, 22591, 22592, 22590, 22594 & 22595 of 2026.

8. The learned Government Advocate appearing for the Department, while defending the order passed by the Tribunal, submitted that when there is a statutory bar against entertaining an appeal against a remand order passed by the Appellate Authority, the appeal preferred by the assessee before the Tribunal is clearly not maintainable. Therefore, the dismissal of the appeal has to be confirmed.

9. There are two primary issues to be answered in this case. Firstly, whether a composite order passed by the Appellate Authority, which reopens the predominant issue for fresh consideration and at the same time had given a final verdict for other ancillary issues to be considered an order "set aside" for fresh assessment falling under the embargo of the third proviso to Section 58(1) of the Act or whether it operates as a partial remand to make a limited assessment. The second issue is whether the Tribunal, while considering the maintainability of the appeal, properly considered the grounds of appeal and the impugned order of the Appellate Authority.

10. The assessment orders in the instant case and the orders of the Appellate Authority are verbose and detailed. However, the fact remains that the exemption was claimed by the assessee in respect of inter-State sales during the transit of the goods, on the ground that the transactions involved specific boilers sold to its customers under a works contract and that the transfer falls within Section 6(2) of the CST Act.

11. The Appellate Authority, after formulating four points for consideration, reopened all the issues for fresh consideration, granting liberty to the assessee to produce documents. In such circumstances, though the exact expression of "assessment order is set aside and remanded back for fresh assessment" were not explicitly used in the order, the sum and substance of the Appellate Authority's order is that the assessment order stands set aside and the Assessing Officer has been directed to consider the matter afresh based on materials to be produced by the assessee.

12. Since the primordial issue has been sent back for fresh consideration, the order of the Appellate Authority falls within the purview of the proviso to Section 58 (1) of the Act, which places a statutory embargo on the Appellate Tribunal's power to entertain the appeal.

13. Insofar as the second issue is concerned, regarding the defence and justification raised by the assessee to maintain the appeal before the Tribunal and the allegation that the written submissions were not considered by the Tribunal, we concur with the view that an appeal before the Tribunal against an order of the Appellate Authority remanding the matter back to the Assessing

Officer for fresh assessment is statutorily barred. Since the conclusion of the Tribunal is in conformity with the law and the facts of the case, we direct the assessee to agitate the cause before the Assessing Officer as directed by the Appellate Authority with all the opportunity granted to adduce evidence and documents for an appropriate assessment.

14. We hasten to add that in the course of making the fresh assessment, the Assessing Officer shall not be prejudiced by any observations made by the Appellate Authority or by the Tribunal. The assessment shall be conducted entirely as a fresh assessment based on the materials produced by the assessee and such assessment shall be in tune with the settled legal positions of the Sales Tax Tribunal and the Courts in respect of transit sales.

15. In view of the above observations, this Tax Case Revision is disposed of. No costs.

16. Since the Tax Case Revision is disposed of, nothing survives in the prayers sought in the connected writ petitions. Hence, they stand dismissed. A period of three months is granted to complete the fresh assessment from the date of receipt of a copy of this order. No costs.

(Dr.G.J.,J.) (N.M.,J.)
10-08-2026

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

To

1.The Assistant Commissioner (CT),
Thiruverumbur Assessment Circle,
Trichy.

2.Appellate Deputy Commissioner (CT)
Trichy

3.The Tamil Nadu Sales Tax Appellate Tribunal
(Additional Bench), Coimbatore 18.

T.C.No.16 of 2026
& C.M.P.No.13335 of 2026
&
W.P.Nos.22588, 22590 to 22592, 22594 & 22595 of 2026

Dr. G. JAYACHANDRAN, J.
and
N. MALA, J.

This case is posted under the caption *"For Being Mentioned."*

2. In the introduction paragraph of the common order dated 10.08.2026, the Assessment Years were wrongly mentioned as 2012-13, 2013-14, 2014-15, 2015-16, 2016-17 & 2017-18 instead of 2006-07, 2007-08, 2008-09, 2009-10, 2010-11 & 2011-12. Thus, the error has been brought to the notice of this Court by the learned counsel for the respective parties. On verifying the fact, the error is rectified and in the place of Assessment Years 2012-13, 2013-14, 2014-15, 2015-16, 2016-17 & 2017-18, it shall substituted as "2006-07, 2007-08, 2008-09, 2009-10, 2010-11 & 2011-12." The Registry is directed to issue fresh copies of the corrected order to the parties concerned.

(Dr. G. JAYACHANDRAN, J.) & (N. MALA, J.)
24.08.2026

bsm

Dr. G. JAYACHANDRAN, J.
and
N. MALA, J.

rpl/bsm

T.C.No.16 of 2026
& C.M.P.No.13335 of 2026
&
W.P.Nos.22588, 22590 to 22592, 22594 & 22595 of 2026

24-08-2026