Case Citation: (2026) taxcode.in 1045 HC

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.04.2026

CORAM:

THE HON'BLE MR JUSTICE N.ANAND VENKATESH
AND
THE HON'BLE MR JUSTICE K.K.RAMAKRISHNAN

Appeal CAD(md).No.1 of 2025
and C.M.P (MD) No.2419 of 2025

The General Manager,
M/s.Sudhakara Infratech Private Limited,
Metro Residency,
304, Raj Bhavan Road,
Hyderabad – 600 082,
State of Telangana. ... Appellant

Vs.

1.R.Nixon Alwin

2.The District Collector,
Kanyakumari District, Kanyakumari.

3.The Chief Engineer,
TWAD, Madurai Region,
Opposite to Mattuthavani Bus Stand,
Ganesh Nagr, K.Pudur, Madurai – 625 007.

4.The Deputy Commissioner,
Commercial Tax,
GST Tax Office,
Mead Street, Nagercoil – 629 001. ... Respondents 2 to 4/
Defendants 2 to 4

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Case Citation: (2026) taxcode.in 1045 HC

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PRAYER:- This Appeal filed under Section 13(1) of the Commercial Courts Act, 2015, to set aside the judgment and decree, dated 26.09.2025 made in C.O.S.No.10 of 2022 on the file of the Principal District Court, Kanyakumari at Nagercoil by allowing the present appeal.

For Appellant	: M/s.N.R.Rekha
For R-1	: Mr.S.Karunakar
For R2 and R4	: Mr.R.Suresh Kumar Additional Government Pleader
For R3	: Mr.B.Vijay Karthikeyan

J U D G M E N T

(Judgment of the Court was delivered by N.ANAND VENKATESH, J.)

The first defendant in the Commercial Suit is the appellant before this Court and the present appeal has been filed under Section 13(1) of the Commercial Courts Act, 2016.

2. The first respondent/plaintiff filed a suit on the ground that the appellant/first defendant was a contractor under the 3rd defendant, namely, Tamil Nadu Water Supply and Drainage Board. In order to complete a portion of the civil work that was awarded in favour of the

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appellant, the appellant entered into an agreement dated 23.11.2016 with the plaintiff. The further case of the plaintiff is that, as and when the work was completed, the appellant made payments by deducting 10%. On completion of the work executable under the agreement, the plaintiff claimed that the appellant is due and payable an amount to the tune of Rs.16,43,747/- as on 10.03.2017. Insofar as this amount is concerned, the plaintiff made a claim for the service tax dues for the period from 10.03.2017 to 05.03.2019. For another sum of Rs.92,15,562/-, the plaintiff brought it under the head payable under the Goods and Services Tax Act. The plaintiff claims that he reminded the appellant about the payment of service tax under the GST Act and no reply was forthcoming. Hence, the suit was filed for recovery of a sum of Rs.16,43,747/- from the appellant on the balance amount payable in connection with the agreement and for a sum of Rs.99,25,355/- towards GST for the completed contractual work done by the plaintiff.

3. The appellant/first defendant filed a written statement stating that the plaintiff did not complete seven (7) components out of the total

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of nineteen (19) components assigned to him. The further ground that was taken is that whatever amount was due and payable to the plaintiff has been paid and insofar as the GST is concerned, even the agreement did not contemplate the payment of GST by the first defendant to the 3rd defendant.

4. Based on the pleadings, the Trial Court framed the following issues:

1) Is it correct that the first defendant has to pay a sum of Rs.7,09,793/- as service tax amount as on 10.03.2017 i.e. Before the GST period and from 08.07.2017 to 05.03.2019 Rs.92,15,562/- as GST for the completion of the work done by the plaintiff as per the agreement dated 23.11.2016?

2) Whether the plaintiff is entitled for a sum of Rs. 16,43,747/- from the defendant?

3) Whether the plaintiff is entitled to a decree for mandatory injunction as prayed by him?

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4) What other reliefs the plaintiff is entitled to?

5. The plaintiff examined PW1 and PW2 and marked Ex.A1 to Ex.A11. The first defendant examined DW1 and marked Ex.B1 to Ex.B4.

6. The Trial Court, considering the facts and circumstances of the case and on appreciation of evidence, passed a judgment and decree dated 26.09.2024 partly decreeing the suit with a direction to the appellant to pay a sum of Rs.16,43,747/- along with costs. Aggrieved by the same, the present appeal has been filed before this Court.

7. This Court carefully considered the submissions made on either side and the materials available on record.

8. The points for consideration in the present appeal are:

(a) whether the trial court was right in directing the appellant to pay the sum of Rs.16,43,747/- towards balance amount payable towards completed work and ;

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(b) whether the judgment and decree passed by the trial court warrants the interference of this court in the present appeal.

9. The claim made by the first respondent/plaintiff had two (2) components to it. The first component is the balance amount that was due and payable by the appellant towards the retention of 10% on every bill that was submitted by the plaintiff. The second component pertains to tax and GST. The first issue that was considered by the Trial Court touched upon the tax and GST component and the Trial Court came to the conclusion that the plaintiff was not able to prove the said claim and accordingly, it was rejected.

10. Thereafter, the Trial Court went into the next claim made by the plaintiff, which is the balance amount due and payable by the appellant to the tune of Rs.16,43,747/-.

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11. While dealing with the above issue, the Trial Court took into consideration two documents, namely Ex.A11 and Ex.B4. The Trial Court also took into consideration the evidence of PW1. On appreciation of evidence, the Trial Court came to a conclusion that even though there is some discrepancy in the annexures that were attached to Ex.B4 and Ex.A11 letters, the fact remains that the demand made was almost the same. In fact, under Ex.A11, the demand made was to the tune of Rs. 18,26,375/-. A sum of Rs.1,82,638/- had been deducted as per the annexure to Ex.A11 and the balance amount was claimed by the plaintiff. The Trial Court found that even though the appellant/first defendant claimed that the plaintiff did not complete the work and the appellant was forced to complete the work, the same was not substantiated before the Trial Court. The appellant/first defendant also questioned the experience certificate that was issued by the 3rd defendant in this regard.

12. In order to clarify this position, we directed the learned Standing Counsel appearing on behalf of the TWAD Board to take instructions.

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13. The learned counsel submitted that the plaintiff had executed the components of the water treatment plant that were given under contract to the first defendant and that work was performed by the plaintiff, who was the sub-contractor, under the supervision of the TWAD Board. He further submitted that on completion of the work, an experience certificate was given and it was issued by the Superintending Engineer on 30.05.2018 and this has been further confirmed by the Executive Engineer to the effect that the plaintiff undertook the work and completed it as a sub-contractor to the appellant/first defendant.

14. The learned counsel for the appellant submitted that out of nineteen (19) components, the plaintiff had partly completed 12 components and the remaining seven (7) components were not completed, which were assigned to him and insofar as incomplete work is concerned, it was undertaken by the appellant and completed. However, the plaintiff had managed to get the certificate from the TWAD Board as if he had completed the entire work.

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15. The above stand that has been taken by the appellant is not borne out by any evidence. Even the Trial Court, while appreciating the evidence, has come to the conclusion that on the part of the appellant, there is no material to substantiate this defence taken by the appellant. Hence, by applying the theory of preponderance of probabilities, the Trial Court has partly decreed the suit insofar as the balance sum payable to the tune of Rs.16,43,747/-.

16. This Court, while sitting on appeal, has to appreciate the evidence. However, when the finding of the Trial Court is reversed, this Court has to assign reasons as to why the reasoning of the Trial Court is perverse. The reason assigned by the Trial Court in paragraph No.14 of the judgment is not perverse and it is based on appreciation of evidence. The appellant/first defendant was not able to establish before the Trial Court that ultimately the work was completed only by the appellant and not by the plaintiff. This runs contrary to the certificate that was issued by the TWAD Board in the name of the plaintiff.

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www.taxcode.in

Case Citation: (2026) taxcode.in 1045 HC

WEB COPY

17. In the light of the above discussion, this Court does not find any ground to interfere with the judgment and decree passed by the learned Principal District Judge, Kanyakumari at Nagercoil in C.O.S. No. 10 of 2022, dated 26.09.2025. The points for consideration are answered accordingly. In the result, the present appeal is dismissed with costs. Consequently, the connected miscellaneous petition is closed.

[N.A.V., J.] **[K.K.R.K., J.]**

20.04.2026

NCC :Yes/No
Index :Yes/No

Indu/PKN

To

1.The learned Principal District Judge,
Kanyakumari at Nagercoil.

2.The District Collector,
Kanyakumari District, Kanyakumari.

3.The Chief Engineer,
TWAD, Madurai Region,
Opposite to Mattuthavani Bus Stand,
Ganesh Nagr, K.Pudur, Madurai – 625 007.

https://www.mhc.tn.gov.in/judis

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4.The Deputy Commissioner,
Commercial Tax,
GST Tax Office,
Mead Street, Nagercoil – 629 001.

5.The Record Keeper (Vernacular Records),
Madurai Bench of Madras High Court,
Madurai.

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