



## JUDGEMENT

# Unutilised Advance Tax balance under Tamil Nadu VAT (TNVAT) Permitted to be Transitioned u/s 140 of the Tamil Nadu Goods and Services Tax Act, 2017

<b>In Case Of:</b>	M/s. Radhikka Ceramic World
<b>Issued By:</b>	Madras High Court
<b>Order No:</b>	W.P. (MD) No. 1098 of 2021
<b>Order Date:</b>	04 <sup>th</sup> April 2024

# OBSERVATIONS

- The applicant sells ceramic and imported tiles from various states. Due to tax evasion concerns, they prepaid taxes at Tuticorin port @ 20% of the invoice value. However, this advance tax remained unused in their VAT returns for June 2017.
- They requested to transfer it to the Commercial Tax Department in the importing state as per Section 140 of the TNGST Act, 2017. The State Tax Officer refused the same passing order to deny the transitional tax that remained unutilized in the VAT returns.
- The petitioner filed a writ petition in the High Court contesting the order passed by the State Tax Officer.

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- The respondent contended that only ITC remaining unused as of June 30, 2017, is eligible for transition under Section 140 of the TNGST Act, 2017. Transitioning of unused advance tax was deemed ineligible as it does not correlate ITC.
- The bench analyzed Section 140 of the GST Act and noted no scope for denying the transition of such amounts. It referred to earlier ruling by Madras High Court in case of Avatar Petro Chemicals Private Limited Vs. Goods and Service Tax Council, emphasizing that legitimately claimed ITC and capital goods credit under previous tax regulations must be authorized for carry-forward and utilization under GST, aiming to facilitate the industry.
- The court upheld the petitioner's claim for transitioning the unutilized advance tax payment and emphasized the importance of facilitating legitimate credit carry-forward mechanisms to ensure continuity and fairness in tax administration.

N J JAIN & ASSOCIATES

CHARTERED ACCOUNTANTS

[WWW.NJJAIN.COM](http://WWW.NJJAIN.COM)

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[info@niteshjain.co.in](mailto:info@niteshjain.co.in)

079-4002-2628