BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.10.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P.(MD). No.24012 of 2023
and W.M.P(MD).No.20165 of 2023

T.Ramar ... Petitioner

Vs.

1.The Assistant Commissioner of CGST and Central Excise,
Madurai-I Division,
No.5, V.P.Rathinasamy,
Nadar Road, Bibikulam,
Madurai-625 002.

2.The Superintendent,
O/o.The Superintendent of GST and Central Excise,
Madurai I Division,
No.5, V.P.Rathinasamy Nadar Road,
Bibikulam,
Madurai-625 002. ...Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records pertaining to the impugned assessment order in DIN:20221259XO000061186D dated

07.12.2022-File No.C.No.IV/09/2022 ST Adjn and quash the same as illegal and devoid of merits.

For Petitioner : Mr.Raja Karthikeyan

For Respondents : Mr.N.Dilip Kumar
Standing Counsel

ORDER

This Writ Petition has been filed challenging the impugned assessment order, dated 07.12.2022 passed by the first respondent imposing service tax and penalty on the petitioner.

2. The learned counsel appearing for the petitioner submits that the petitioner was doing contract in Public Works Department and the services provided to the Government by way of construction, commission, installation and completion etc., were exempted by virtue of Notification No.25/2012. However, the same was withdrawn vide the Notification No.6/2015-Service Tax dated 01.03.2015 with effect from 01.04.2015. The respondents have issued a show cause notice dated 25.04.2022 demanding service tax from the petitioner for the period from

01.10.2016 to 30.06.2017 and the petitioner has also given a reply on 01.12.2022. However, the first respondent, without providing personal hearing to the petitioner, has passed the impugned assessment order imposing service tax and penalty on the petitioner.

3. The learned Standing Counsel appearing for the respondents submits that as against the impugned assessment order passed by the first respondent, the petitioner is having an appeal remedy under Section 107 of the Tamil Nadu Goods and Service Tax Act, 2017 and the appeal ought to have been filed within a period of 90 days from the date on which the said decision or order is communicated to such person. However, the learned Standing Counsel, by referring to the minutes of GST Council, dated 07.10.2023, submits that the Council has recommended providing an amnesty scheme through a special procedure under Section 148 of the said Act, for taxable persons, who could not file appeal under Section 107 of the said Act, against the demand orders under Sections 73 or 74 of the said Act, passed on or before 31st day of March, 2023 and filing of appeal by the tax payers is permitted against such orders upto 31st January, 2024 with certain conditions.

4. Since the petitioner is having an appeal remedy under Section 107 of the said Act and the time limit for filing appeal has been extended by the GST Council upto 31.01.2024, this Writ Petition is disposed of, with liberty to the petitioner to file an appeal before the Appellate Authority, within a period of two weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Connected miscellaneous petition is closed.

09.10.2023

Index: Yes/No
Internet: Yes/No
ssb

To

1.The Assistant Commissioner of CGST and Central Excise,
Madurai-I Division,
No.5, V.P.Rathinasamy,
Nadar Road, Bibikulam,
Madurai-625 002.

2.The Superintendent,
O/o.The Superintendent of GST and Central Excise,
Madurai I Division,
No.5, V.P.Rathinasamy Nadar Road,
Bibikulam,
Madurai-625 002.

B.PUGALENDHI, J.

ssb

W.P.(MD).No.24012 of 2023

09.10.2023