BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.01.2025**

CORAM:

THE HONOURABLE MR.JUSTICE **K.KUMARESH BABU**

W.P.(MD) No.863 of 2025
and
W.M.P.(MD) Nos.543 and 544 of 2025

Santhanamari Santhanam Ganesan @ Santhosh
... Petitioner

/vs./

1.The Commissioner (Appeals),
Excise and Service Tax Appellant Tribunal,
No.1, Williams Road,
Cantonment,
Trichy 620 001.

2.The Joint Commissioner of Customs,
Custom House, New Harbour Estate,
Tuticorin.

3.The Superintendent,
Custom House,
New Harbour Estate,
Tuticorin. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the entire records relating to the impugned penalty proceedings in ORDER-IN-ORIGINAL TUT-CUSTOM-PRV-JC-11/2024 IN DIN - 20240281OH0000316613 dated 13.02.2024 passed by the 2nd respondent and to quash the same as illegal.

For Petitioner : Mr.S.Vidhya Sagar

For R1 & R2 : Mr.R.Suresh Kumar
Additional Government Pleader

For R3 : Mr.N.Dilip Kumar

ORDER

The challenge in the writ petition is to an order made by the second respondent, against which an appeal remedy is also available before the first respondent as indicated in the order impugned herein.

2. Even though the learned counsel for the petitioner had attempted to convince the Court that the same suffers from the vice of arbitrariness, as the order has been made without applying the mind on the contentions raised by the petitioner, I am not inclined to accept the same, as the second respondent after considering various relevant factors including the statements made by the various

individuals and after ascertaining the roles played by the named individuals therein had passed orders.

3. It was the further case of the petitioner that the petitioner was only an agent of Custom House and therefore, he cannot be mulct with the liability or held responsible. These contentions are all on the merits of the order. The petitioner had not made any grounds as envisaged by the Hon'ble Apex Court in the judgment reported in ***2021 SCC Online SC 884 (Assistant Commissioner of State Tax and others Vs. Commercial Steel Limited)*** to entertain the writ petition, where there is an efficacious alternative remedy.

4. In such view of the matter, I am not inclined to entertain the writ petition, as there is an efficacious alternative remedy available to the petitioner. In fine, the Writ Petition stands dismissed with liberty to the petitioner to approach the appellate authority challenging the order impugned herein. However, considering the fact that the impugned order had been passed as early as on 13.02.2024 and the period of limitation in filing the appeal would have been long over, the first respondent may entertain the appeal, if the same is filed by the petitioner on or

before 21.02.2025 without insisting on the issue of limitation in filing such appeal. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
mm

09.01.2025

Note : Issue order copy on 28.01.2025

To

1.The Commissioner (Appeals),
Excise and Service Tax Appellant Tribunal,
No.1, Williams Road,
Cantonment,
Trichy 620 001.

2.The Joint Commissioner of Customs,
Custom House, New Harbour Estate,
Tuticorin.

K.KUMARESH BABU, J.

mm

W.P.(MD) No.863 of 2025

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