BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.1461 of 2025

and WMP (MD) No.1027 of 2025

ABI Agency
Rep. by its Proprietor
Vijayaraghavalu : Petitioner

Vs.

1. The Secretary to the Government,
Ministry of Finance Department,
Room No.76, New Delhi - 01.

2. The Secretary to the Government,
Tamil Nadu Finance Department GST,
St. George, Chennai - 09.

3. The Appellate Deputy Commissioner (GST),
12A/26, Ponnagar,
No.2, Main Road,
GST Department,
Trichy - 620 001.

4. The Deputy State Tax Officer - II,
O/o. Deputy State Tax Officer,
Kumbakonam (Rural) Assessment Circle,
Thanjavur. : Respondents

PRAYER: Writ Petitions 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 GSTIN - 33BHQPK4159L1ZU/2017-2018 dated 30.12.2023 passed by the 4th respondent and to quash the same as illegal.

For Petitioner : Mr. S.Vidhya Sagar
For Respondents : Mr.J.K.Jayaselan
Government Advocate
for R2 & R4
Mr.K.Sankararaman
CGSC for R1

ORDER

This Writ Petition has been filed challenging the interest demand order dated 30.12.2023, passed by the fourth respondent.

2. The learned counsel for the petitioner submits that Section 128A of CGST Act provides for the waiver of interest or penalty or both relating to a demand under Section 73 of CGST Act for the period from July 2017 to March 2018. The respondents, however, passed the impugned order without considering this provision. The main grievance

of the petitioner is that since the appeal was affected by the limitation, it was automatically rejected by the authority without considering the *bona fide* reasons for the delay. Aggrieved by this, the petitioner has filed the present writ petition.

3. The learned Government Advocate, appearing on behalf of respondents 2 to 4, submits that subsequent to the impugned order dated 30.12.2023, the authorities have now passed a rectification order in GSTIN:33BHQPK4159L1ZU/2017 – 18, dated 28.02.2025 under Section 161 of the CGST Act, with respect to the levy of interest under Section 50(1) of the CGST Act. Therefore, the petitioner may challenge the rectification order in accordance with law.

4. Heard the learned counsel for the parties and perused the materials available on record.

5. In the light of the submission made by the learned Government Advocate and also taking into consideration the fact that subsequent to the impugned order dated 30.12.2023, the authorities have passed a rectification order under Section 161 of the TNGST Act, on

28.02.2025, the petitioner is directed to challenge the rectification order, if aggrieved by it, by following the due process of law.

6. This writ petition stands disposed of with the above direction. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

04.03.2025

Index : Yes / No
Internet : Yes / No

PKN

To

1. The Secretary to the Government,
Ministry of Finance Department,
Room No.76, New Delhi - 01.

2. The Secretary to the Government,
Tamil Nadu Finance Department GST,
St. George, Chennai - 09.

3. The Appellate Deputy Commissioner (GST),
12A/26, Ponnagar,
No.2, Main Road,
GST Department,
Trichy - 620 001.

4. The Deputy State Tax Officer - II,
O/o. Deputy State Tax Officer,
Kumbakonam (Rural) Assessment Circle,
Thanjavur.

VIVEK KUMAR SINGH, J.

PKN

W.P.(MD) No.1461 of 2025

04.03.2025