BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.01.2025

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD).No.2367 of 2025
and
W.M.P.(MD)No.1671 of 2025

M/s.Balaji Lorry Service,
Represented by its Partner,
P.Ramar
GSTIN 33AAVFB6376P1ZJ,
75-1, North Car Street,
Aruppukkottai – 626 101. ...Petitioner

Vs

The Deputy State Tax Officer – 1,
Aruppukottai Assessment Circle,
Commercial Tax Buildings, Aruppukkottai. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in GSTIN 33AAVFB6376P1ZJ/2021-22 dated 26.09.2024 passed under section 73 and consequential order passed in GSTIN 33AAVFB6376P1ZJ /2021-22 Dated 20.01.2025 by the Respondent under section 161 of TNGST Act 2017 and to quash the both as cryptic, non-speaking, illegal, arbitrary, wholly without jurisdiction and clear violation of principles of natural justice and direct the respondent to pass order afresh by considering the objections and records filed by the petitioner on 01.04.2024 after affording opportunity of personal hearing as contemplated under Section 75(4) of the TNGST Act, 2017 and as per the guidelines issued by the Commissioner of State Tax, Chennai in Circular No.8/2024 dated 29.08.2024.

For Petitioner : Mr.N.Sudalai Muthu

For Respondent : Mr.J.K.Jayaselan
Government Advocate

ORDER

Heard Mr.N.Sudalai Muthu, learned counsel for the petitioner and Mr.J.K.Jayaselan, learned Government Advocate for the respondent.

2. The Writ Petition is filed challenging the order dated 26.09.2024 and consequential order dated 20.01.2025 and direct the respondent to pass order afresh by considering the objections and records filed by the petitioner on 01.04.2024 after affording opportunity of personal hearing as contemplated under Section 75(4) of the TNGST Act, 2017 and as per the guidelines issued by the Commissioner of State Tax, Chennai in Circular No.8/2024 dated 29.08.2024.

3. Even though the learned counsel for the petitioner contends that the assessment order was passed without affording an opportunity of hearing after the petitioner filed their reply, it is noted that the petitioner subsequently made a rectification application before the authority. However, the application was rejected on 20.01.2025, on the ground that there was no provision for rectification of an order passed after considering the reply which in view of the Court would not be a proper reason to reject the rectification application. It is the case of the petitioner that despite submitting his reply, he did not produce invoices. However, if an opportunity of hearing is granted, he would produce such invoices to substantiate his claims.

4. In such view of the matter, the order dated 20.01.2025 rejecting the rectification alone is set aside and the matter is remitted back to the respondent. The petitioner shall appear before the respondent on 24.02.2025 and substantiate his claim by producing relevant documents. If the petitioner fails to appear or produce documents to substantiate his claim, the respondent is at liberty to pass appropriate orders on merits and in accordance with law. It is made clear that until further orders, the amount lying in the petitioner's attached account shall not be encashed

by the respondent. Furthermore, the petitioner shall be entitled to the benefits of the order made in W.P.(MD)No.27787 of 2024, in the event the respondent rejects his request for rectification.

5. In fine, the Writ Petition is partly allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

28.01.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

<u>To:</u>

The Deputy State Tax Officer – 1,
Aruppukottai Assessment Circle,
Commercial Tax Buildings, Aruppukkottai.

K.KUMARESH BABU, J.

Nsr

W.P.(MD).No.2367 of 2025

28.01.2025