BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.3439 of 2025

and

WMP (MD) Nos.2430 to 2432 of 2025

M/s.Karuppasami Traders

Rep. by its Proprietor

Kannan : Petitioner

Vs.

1. Commercial Tax Officer,
Tuticorin III Assessment Circle,
No. 6R, North Cotton Road, Thoothukudi,
Tamil Nadu 628 001.

2. The Branch Manager,
Tamilnad Mercantile Bank,
Srivaikundam Branch,
Thoothukudi 628601. : Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 1st respondent in order No.ZD330524338401R dated 31.05.2024 and quash the same as illegal and direct the respondent to remand the matter for reconsideration.

For Petitioner : Mr.P.Selvakumar

For Respondents : Mr.R.Suresh Kumar
Addl Government Pleader for R1

ORDER

This writ petition has been filed challenging the order of assessment dated 31.05.2024 issued by the first respondent.

2. No grounds have been made as indicated in the order of the Hon'ble Apex Court in ***Assistant Commissioner of State Tax and others vs. Commercial Steel Limited***, reported in ***2021 SCC OnLine SC 884***. For better appreciation, the relevant paragraphs are extracted hereunder:

> "*10. The respondent had a statutory remedy under Section 107. Instead of availing of the remedy, the respondent instituted a petition under Article 226. The existence of an alternative remedy is not an absolute bar to the maintainability of a writ petition under Article 226 of the Constitution. But a writ petition can be entertained in exceptional circumstances where there is:*

(i) a breach of fundamental rights;

(ii) a violation of the principles of natural justice;

(iii) an excess of jurisdiction; or

(iv) a challenge to the vires of the statute or delegated legislation.

11. In the present case, none of the above exceptions was established. There was, in fact, no violation of the principles of natural justice since a notice was served on the person in charge of the conveyance. In this backdrop, it was not appropriate for the High Court to entertain a writ petition. The assessment of facts would have to be carried out by the appellate authority. As a matter of fact, the High Court has while doing this exercise proceeded on the basis of surmises. However, since we are inclined to relegate the respondent to the pursuit of the alternate statutory remedy under Section 107, this Court makes no observation on the merits of the case of the respondent.

*12. For the above reasons, we allow the appeal and set aside the impugned order [**Commercial Steel Co. v. Commr. of State Tax, 2020 SCC OnLine TS 291**] of the High Court.*

The writ petition filed by the respondent shall stand dismissed. However, this shall not preclude the respondent from taking recourse to appropriate remedies which are available in terms of Section 107 of the CGST Act to pursue the grievance in regard to the action which has been adopted by the State in the present case."

3. The arguments made by the learned counsel for the petitioner are on the merits of the order, which do not come within the four parameters indicated in the order of the Hon'ble Supreme Court in ***Commercial Steel Limited*** cited supra. In view of the same, with liberty to the petitioner to approach the appellate authority by filing an appeal as provided under Section 107 of the TNGST Act, 2017, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

14.02.2025

Index : Yes / No
Internet : Yes / No

PKN

To

Commercial Tax Officer,
Tuticorin III Assessment Circle,
No. 6R, North Cotton Road, Thoothukudi,
Tamil Nadu 628 001.

VIVEK KUMAR SINGH, J.

PKN

W.P.(MD) No.3439 of 2025

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