BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.3309 of 2025
and
W.M.P.(MD)Nos.2311 and 2312 of 2025

R.Kumaresan,
S/o.Rajamani,
Sole Proprietor of M/s.R.K.Metal,
1/572, Bagavath Singh Colony,
Kaithari Nagar, Madurai – 625 005. ... Petitioner

-vs-

1.The Assistant Commissioner (ST),
Office of the Assistant Commissioner,
Thirupparankundram Circle,
Madurai – 625 020.

2.The Deputy Commercial Tax Officer,
Office of Deputy Commercial Tax Officer,
Thirupparankundram,
Madurai.

3.The Branch Manager,
Tamilnad Mercantile Bank,
Thiru Nagar Branch,
Seethalakshmi Vilagam,
1st Floor, Thiru Nagar 3rd Bus Stop,
Thiru Nagar, Madurai – 625 006. ... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for records and quash the order passed by the second respondent under Section 73 of CGST Act in Form GST DRC-07 bearing Ref No:ZD330824226262M, dated 25.08.2024 and consequentially, de-freeze the Bank Account No.276507305755555 maintained with the third respondent and restrain the respondents 1 and 2 from proceeding with any further recovery process pursuant to the above Impugned order under Form GST DRC-07, bearing Ref No:ZD330824226262M, dated 25.08.2024, passed by the second respondent, within a time frame as may be fixed by this Court.

For Petitioner : Mr.I.M.Siddartha Ramarajan

For R1 and R2 : Mr.J.K.Jeyaseelan
Government Advocate

ORDER

This Writ Petition has been filed seeking to quash the impugned orders passed by the second respondent under Section 73 of CGST Act in Form GST DRC-07, bearing Ref No:ZD330824226262M, dated 25.08.2024 and consequentially, de-freeze the Bank Account No.276507305755555, maintained with the third respondent and restrain the respondents 1 and 2 from proceeding with any further recovery process pursuant to the above impugned order under Form GST DRC-07, bearing Ref No:ZD330824226262M, dated 25.08.2024, passed by the second respondent.

2. Heard both sides. With the consent of both sides, this Writ Petition is disposed of, at the admission stage itself.

3. The petitioner submits that following the issuance of a show cause notice, dated 30.05.2024, the second respondent issued multiple reminder notices, namely, Reminder Notice-1 dated 03.07.2024, Reminder Notice-2 dated 23.07.2024 and Reminder Notice-3 dated 05.08.2024. Subsequently, the second respondent conducted proceedings and passed an ex-parte order under Section 73 of the CGST Act in Form GST DRC-07 for the period April 2019 to March 2020, bearing Ref. No.ZD330824226262M on 25.08.2024. However, the impugned order was passed without affording the petitioner a sufficient and adequate opportunity to present his case and submit explanations regarding the accounts and summaries in question. Moreover, the order was merely uploaded under the "Additional Notices" tab on the GST portal and was never communicated to the petitioner through post or physically delivered to him to date.

4. It is further submitted that a Recovery Notice under Form GST DRC-13 dated 18.12.2024 was issued by the first respondent to the third respondent (bank). When the petitioner approached the bank regarding issues with his non-functioning bank account, he came to know about the said notice. To his shock and dismay, the third respondent informed him about the frozen of his account and showed him the Recovery Notice under Form GST DRC-13, which had been issued at the instructions of the first respondent.

5. The learned Government Advocate appearing for the respondents submitted that the petitioner has an alternative remedy of appeal before the Appellate Commissioner under Section 107 of the TNGST Act, 2017 against the impugned order.

6. In view of the above submission, the petitioner is directed to first exhaust the statutory remedy available under law before approaching this Court. The petitioner shall prefer an appeal together with necessary pre-deposit within one month from the date of receipt of a copy of this order. Upon filing of the appeal together with necessary pre-deposit, the Appellate Commissioner shall entertain the appeal without reference to the period of limitation and dispose of the same on merits and in accordance with law, within a period of two months thereafter.

7. With the above directions, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes / No
Index : Yes / No
smn2

05.02.2025

To:-

1.The Assistant Commissioner (ST),
Office of the Assistant Commissioner,
Thirupparankundram Circle,
Madurai – 625 020.

2.The Deputy Commercial Tax Officer,
Office of Deputy Commercial Tax Officer,
Thirupparankundram,
Madurai.

VIVEK KUMAR SINGH, J.

smn2

W.P.(MD)No.3309 of 2025

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