BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.5129 of 2025
and
W.M.P.(MD)Nos.3723 and 3725 of 2025

M/s.M.M.S. Iron Corporation,
Represented by its Proprietor P.Praveen,
412, Sattur Road, Kottaipatty, Virudhunagar. ... Petitioner

-vs-

The Superintendent of CGST and C. Excise,
Virudhunagar - II Range,
Central Excise Staff Quarters Campus,
Madurai Road,
Virudhunagar – 626001. ... Respondent

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records in the impugned Order-in-Original GST/VNR-II/SUPDT/20/2023, dated 22.02.2023, in Form GST DRC 07 Ref.No.ZD331123003010N, dated 01.11.2023, issued by the respondent and quash the same is wholly without jurisdiction.

For Petitioner	:	Mr.S.Karunakar
For Respondent	:	Mr.N.Dilip Kumar Senior Standing Counsel

ORDER

This writ petition is filed challenging the impugned Order-in-Original GST/VNR-II/SUPDT/20/2023, dated 22.02.2023, in Form GST DRC 07 Ref.No.ZD331123003010N, dated 01.11.2023.

2. The learned counsel appearing for the petitioner submits that the person managing the petitioner's concern, due to ill-health and requiring periodic treatment, was unable to fully concentrate on business activities and was advised to take bed rest for several months. The petitioner was under the *bona fide* belief that the part-time accountant would ensure compliance with all statutory requirements. However, the accountant failed to do so. Hence, the petitioner was unable to participate in the adjudication proceedings, which resulted in the issuance of the ex parte impugned order.

3. Mr.N.Dilip Kumar, learned Senior Standing Counsel appearing for the respondent submits that the impugned assessment order has been passed after issuing show cause notice to the petitioner on 21.11.2022 and therefore, there is no need to interfere with the impugned order. He further submits that the petitioner is having an appeal remedy before the Commissioner of CGST and Central Excise (Appeals), Coimbatore (Circuit Office at Madurai), under Section 107 of the CGST Act, 2017. However, without invoking the appeal remedy, the petitioner has straightaway approached this Court.

4. Recording the submission made by the learned Senior Standing Counsel that the petitioner is having an appeal remedy before the Commissioner of CGST and Central Excise (Appeals), Coimbatore (Circuit Office at Madurai) under Section 107 of the CGST Act, 2017, this writ petition is disposed of with liberty to the petitioner to approach the appellate authority and raise all the grounds raised in this writ petition in the appeal. In the event, if any appeal is filed within a period of two weeks from the date of receipt of a copy of this order, the same shall be entertained by the appellate authority without insisting on the limitation and disposed of in accordance with law, within a period of one month thereafter. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

26.02.2025

NCC : Yes / No
Index : Yes / No
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To:-

The Superintendent of CGST and C. Excise,
Virudhunagar - II Range,
Central Excise Staff Quarters Campus,
Madurai Road,
Virudhunagar – 626001.

VIVEK KUMAR SINGH, J.

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W.P.(MD)No.5129 of 2025

26.02.2025