BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.5355 of 2025
and
W.M.P.(MD)No.3923 of 2025

M/s. Arumugam Modern Rice Mill,
Rep. by its Proprietor, A.Kishok Muruganantham,
No.3/8, Eral Road, Kurumbur,
Tuticorin District-628207. ... Petitioner

-vs-

1.The Assistant Commissioner (ST),
Tuticorin III Assessment Circle,
Tuticorin District.

2.The Deputy Commissioner (CT),
GST Appeal, Palayamkottai,
Tirunelveli. ... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for records pertaining to the impugned order passed by the first respondent vide his order in GSTIN: 33AKBPK4705D1ZS/2017-18, dated 29-12-2023 and quash the same as it is illegal, without jurisdiction (time barred) and in gross violation of Principles of Natural Justice and further direct the respondent to re-do the assessment afresh after providing an opportunity of Personal Hearing as per the provisions of the GST Act.

For Petitioner	:	Mr.A.Satheesh Murugan
For Respondents	:	Mr.J.K.Jayaselan Government Advocate

ORDER

This Writ Petition has been filed challenging the assessment order passed by the first respondent, dated 29.12.2023, for the Assessment Year 2017-2018.

2. The learned counsel for the petitioner submits that the first respondent passed the impugned order without considering the replies filed by the petitioner, in gross violation of the principles of natural justice. The learned counsel further submits that the impugned order for the Assessment Year 2017-2018 was passed only on 29.12.2023. Aggrieved by the impugned order, the petitioner has already filed an appeal before the second respondent, who has admitted the appeal. However, on 20.06.2024, due to a mistake by the petitioner's accountant, an application for withdrawal of the appeal was uploaded instead of an adjournment application seeking one-month extension for the hearing due to medical issues. This mistake was made without the knowledge of the petitioner. Despite the same, the second respondent has not yet considered the said application. Hence, the present Writ Petition has been filed.

3.Mr.J.K.Jayaselan, learned Government Advocate appearing for the respondents submits that against the impugned order passed by the first respondent, the petitioner has already filed an appeal before the second respondent. Subsequently, the petitioner filed an application for withdrawal of the said appeal. The learned Government Advocate further submits that a further remedy of appeal is available to the petitioner under Rule 109-C of the TNGST Rules, 2017. Therefore, the petitioner may be directed to file an appeal within a time frame fixed by this Court.

4. Recording the submission made by the learned Government Advocate that the petitioner is having a further remedy of appeal before the second respondent under Rule 109-C of the TNGST Rules, 2017, this Writ Petition is disposed of, with liberty to the petitioner to approach the second respondent 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 15 days from today, the same shall be entertained by the second respondent without insisting on the limitation and disposed of in accordance with law, within a period of three months thereafter. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes / No **28.02.2025**
Index : Yes / No
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VIVEK KUMAR SINGH, J.

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