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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.5559 of 2025
and
W.M.P.(MD)Nos.4051 and 4052 of 2025

D. Justin Kumar ... Petitioner

-vs-

The Assistant Commissioner of CGST and C.Excise,
Tirunelveli Division,
No.7, Tractor Road, N.G.O. 'A' Colony,
Tirunelveli - 627 007. ... Respondent

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on the files of the respondent herein in his proceedings in order in Original No.32/AC/GST/2024, dated 31.05.2024 and quash the same as illegal, arbitrary and blatant violation of the provisions of Section 6(2)(b) of the Central Goods and Service Tax Act, 2017 and violation of constitutional provision being double taxation.

For Petitioner	:	Mr.S.Karunakar
For Respondent	:	Mr.R.Gowrishankar Standing Counsel

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ORDER

This writ petition is filed challenging the Order-in-Original No. 32/AC/GST/2024, dated 31.05.2024.

2. The learned counsel appearing for the petitioner submits that the State GST Officers, Kuzhithurai @ Kattathurai, have already adjudicated the cases on the same subject for the tax periods 2018-2019, 2019-2020, and 2020-2021. As per Section 6(2)(b) of the Central Goods and Services Tax Act, 2017, when the jurisdictional State GST officers have already issued orders demanding tax on the same issue for the same period, any subsequent order passed by the respondent on the same subject and for the same period is contrary to the legislative mandate. Such an action amounts to double taxation and therefore, the order impugned in this writ petition, is liable to be set aside.

3. Mr.R.Gowrishankar, learned Standing Counsel appearing for the respondent submits that the petitioner is having an appeal remedy before the Joint Commissioner of CGST (Appeals), Madurai, under Section 107 of the GST Act, 2017. However, without invoking the appeal remedy, the petitioner has straightaway approached this Court.

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4. Recording the submission made by the learned Standing Counsel that the petitioner is having an appeal remedy before the Joint Commissioner of CGST (Appeals), Madurai, under Section 107 of the GST 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 two months thereafter. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes / No
Index : Yes / No
smn2

03.03.2025

To:-

The Assistant Commissioner of CGST and C.Excise,
Tirunelveli Division,
No.7, Tractor Road, N.G.O. 'A' Colony,
Tirunelveli - 627 007.

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VIVEK KUMAR SINGH, J.

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