BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.8377 of 2025
and
W.M.P.(MD)No.6266 of 2025

Vincent and Sons,
Represented by its Proprietor Vincent,
No.14/4, Kanjiracode,
Trivandrum Main Road,
Kanyakumari - 629 155. ... Petitioner

-vs-

1.The Deputy Commissioner (GST Appeal),
1st Floor, Commercial Tax Buildings,
South High Ground Road,
Palayamkottai, Thirunelveli.

2.The Assistant Commissioner (ST),
Kuzhithurai Assessment Circle,
Kanyakumari District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the Impugned Order in GSTIN 33AAUPV8609G1Z2/2018-19 dated 30.04.2024 on the file of the second respondent and the consequent Impugned Order in GSTIN. 33AAUPV8609G1Z2/2018-19 dated 22.01.2025 on the file of the second respondent and quash the same.

For Petitioner : Mr.I.Romeo Roy Alfred

For Respondents : Mr.J.K.Jayaselan
Government Advocate

ORDER

This writ petition is filed challenging the assessment order passed by the second respondent on 30.04.2024, for the Assessment Year 2018-2019, which was subsequently confirmed by the rectification order passed by the second respondent on 22.01.2025.

2. The learned counsel for the petitioner submits that the petitioner, a firm engaged in wholesale dealing of cement packs, has faced discrepancies in the GST return for the financial year 2018-2019 due to a mismatch between the Input Tax Credit (ITC) claimed in GSTR-3B and the autopopulated details in GSTR-2A. The petitioner provided a detailed explanation to the show cause notice, but the second respondent passed the impugned order without due consideration of the said explanation.

3. The learned counsel further submits that the impugned order, passed on 30.04.2024, erroneously invoked Section 74 of the Tamil Nadu Goods and Services Tax (TNGST) Act, 2017, which is not applicable in this case, as there was no willful misstatement or misrepresentation by the petitioner. The discrepancy arose purely due to technical mismatches in the GST system, which do not warrant the application of such a severe provision for ITC reversal, interest and penalties. Subsequent to the said impugned order, the petitioner filed a rectification application on 20.05.2024, seeking correction of the errors in the order. However, the second respondent unjustifiably rejected the rectification application on 22.01.2025 without providing any reasons, which is arbitrary and violates the principles of natural justice. The impugned orders dated 30.04.2024 and 22.01.2025 both are illegal and untenable. The petitioner has complied with all statutory requirements and provided reasonable explanations for the discrepancies. Therefore, the impugned orders should be quashed in the interest of justice.

4. Mr.J.K.Jayaselan, learned Government Advocate appearing for the respondents submits that the petitioner is having an appeal remedy before the

Deputy Commissioner (GST Appeal), Tirunelveli, under Section 107 of the GST Act, 2017. However, without invoking the appeal remedy, the petitioner has straightaway approached this Court.

5. Recording the submission made by the learned Government Advocate that the petitioner is having an appeal remedy before the Deputy Commissioner (GST Appeal), Tirunelveli, 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 appellate authority shall entertain the appeal without reference to the period of limitation and dispose of the same in accordance with law, within a period of three months thereafter. In the interregnum, the respondents shall maintain status quo prevailing as on date. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

26.03.2025

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

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