BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **17.04.2025**

CORAM :

THE HON'BLE DR JUSTICE G. JAYACHANDRAN
AND
THE HON'BLE MS.JUSTICE R. POORNIMA

W.A(MD)No.1018 of 2025
and
C.M.P(MD)No.6438 of 2023

Kaniyamparampil Steels,
represented by its Proprietor Jaya Jerry,
No.158A, MC Road,
Nattakom,
Kottayam,
Kerala. ... Petitioner

Vs.

1.The Joint Commissioner of SGST (Intelligence),
Tirunelveli Division (Intelligence),
Tirunelveli.

2.The Deputy State Tax Officer,
Roving Squad,
Virudhunagar (Intelligence),
Virudhunagar. ... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letter Patent to allow the writ appeal by setting aside the order made in WP(MD)No.29908 of 2024 dated 10.01.2025 on the file of this Court and allow the writ petition.

For Petitioner : Mr.Raja.Karthikeyan

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

The writ petitioner herein is a trader in Iron and Steel products. His establishment is at Kottayam, State of Kerala. When the goods worth of Rs.11,21,680/- was transported from Kerala to Nagercoil in the Toll at Sattur, Virudhunagar District, Roving squad of Income Tax Department found that the goods were shifting without proper invoices. The goods and vehicle were detained for further adjudication. The order of detention of the vehicle was challenged in the writ petition in W.P(MD)No.29908 of 2024. By virtue of the interim order passed in the said writ petition, the vehicle and the goods were released. Later, proceedings dated 26.12.2024 was issued imposing penalty of 200%. Thereafter, when the writ petition came for final hearing on 10.01.2025, on the submission made by the learned Government Advocate that pending writ petition, final adjudication has been passed and vehicle has been released by virtue of the order dated 10.12.2024, the said writ petition came to be closed.

2. The present Writ Appeal is filed on the ground that the detention order is *per se* illegal and arbitrary. It is in violation of Rule 138 A of the Central Goods and Service Tax Rules, 2017. While Section 16(2)(b)(i) of the Central Goods and Service Tax Act contemplates procedure of transporting goods by the supplier, on the request of the purchasers and the said goods was intended to be supplied to the end user. Through a dealer at Nagercoil without proper understanding and appreciation of the provisions of law, the vehicle was detained and later on penalty has been imposed pending the writ petition. Hence, learned counsel vehemently argued that the detention of the goods and vehicle at the inception itself has been illegal and the same has to be decided in the light of Section Section 16(2)(b)(i) of GST Act and Rule 138 A of the Central Goods and Service Tax Rules, 2017.

3. This Court is of the firm view that after passing final adjudication order, the detention order gets merged with the final order. If the detention as well as the penalty imposed is not in accordance with

law, it is open to the petitioner / appellant to challenge the same in accordance with law before appropriate authority. The statutory authority having adjudicated the issue had come to a conclusion imposing penalty. The writ petition is directed against the detention order which is now been merged with the final adjudication order.

4. Learned Single Judge has rightly observed that after taking note of the fact that final order has been passed, had given liberty to the petitioner / appellant to challenge the order of adjudication in the manner known to law. The request of the appellant has been beyond the scope of the writ petition and the virus of the final order passed subsequently has not been the subject matter of the writ petition, hence the Writ Appeal is dismissed confirming the order of the learned Single Judge.

5. Learned counsel appearing for the appellant stating that against the final adjudication order, an appeal has to be preferred within a period of four months. Since he has been pursuing the Writ Appeal and Writ Petition, the limitation to be saved.

6. Taking note of his submission, liberty is granted to the petitioner / appellant to prefer appeal within a period of one month from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition stands closed. No costs.

[G.J.,J] & [R.P.,J]
17.04.2025

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No

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To

1.The Joint Commissioner of SGST (Intelligence),
Tirunelveli Division (Intelligence),
Tirunelveli.

2.The Deputy State Tax Officer,
Roving Squad,
Virudhunagar (Intelligence),
Virudhunagar.

DR. G. JAYACHANDRAN, J.
and
R. POORNIMA, J.

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Order made in

W.A(MD)No.1018 of 2025
and
C.M.P(MD)No.6438 of 2023

Dated : 17.04.2025