BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.6004 of 2025
and
W.M.P.(MD)No.4403 of 2025

Mohamed Hanifa Anwar Ali ... Petitioner

-vs-

The Assistant Commissioner of Central GST and C.Excise,
Tirunelveli Division,
Central Revenue Building,
Tractor Road,
NGO 'A' Colony, Tirunelveli – 627007. ... Respondent

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent in Order in Ref.No.GST-RFD-06, dated 24.07.2023, passed by the respondent and to quash the same as illegal, arbitrary and direct the respondent to re-consider the refund claim, dated 02.06.2023, ithin such time as may be directed by this Court.

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

ORDER

This writ petition is filed challenging the impugned order of the respondent, dated 24.07.2023, which rejects the refund claim of the petitioner.

2. The learned counsel for the petitioner submits that due to illness, the petitioner closed his business and his GST registration was cancelled. The counsel further submits that when the respondent cancelled the registration, they should have served the notices/orders either in person or by post. Since the petitioner was not served with the notice proposing to reject the refund claim, he was denied an opportunity to rebut the proposal, leading to the impugned order. The learned counsel for the petitioner submits that the failure to serve the notices in accordance with Section 169 of the CGST Act renders the assessment order contrary to the principles of natural justice and the provisions of the GST Act.

3. Mr.R.Gowrishankar, learned Standing Counsel appearing for the respondent submits that the petitioner is having an appeal remedy before the Commissioner of CGST and Central Excise, 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 Standing Counsel that the petitioner is having an appeal remedy before the Commissioner of CGST and Central Excise, 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 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 Petition is closed.

NCC : Yes / No **07.03.2025**
Index : Yes / No
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To:-

The Assistant Commissioner of Central GST and C.Excise,
Tirunelveli Division,
Central Revenue Building,
Tractor Road,
NGO 'A' Colony, Tirunelveli – 627007.

VIVEK KUMAR SINGH, J.

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