BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)Nos.6907 to 6910 of 2025
and
W.M.P.(MD)Nos.5194, 5195, 5253, 5254, 5200, 5201, 5235 and 5239 of 2025

Tvl.Ginu Construction,
Rep. by its Proprietor S.V.Chandra Mohan,
No.27/24/N/1, Kamaraj College Area,
New Colony, Muniasamypuram II,
Tuticorin-628003. ... Petitioner in all the W.Ps.

-vs-

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

2.The Appellate Deputy Commissioner (ST),
GST Appeal, Tirunelveli Camp Office,
Tirunelveli. ... Respondents in all the W.Ps.

PRAYER IN W.P.(MD)No.6907 of 2025:- 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 No.:33ABAPM6168J1ZK/2017-18 dated 08.01.2024 and the consequential order passed by the second respondent vide his Proc. No.

A1/4727/2024, dated 29.11.2024 and quash the same as it is illegal, without jurisdiction and in gross violation of Principles of Natural Justice and further direct the first respondent to re-do the assessment afresh after providing an opportunity of Personal Hearing as per the provisions of the GST Act.

PRAYER IN W.P.(MD)No.6908 of 2025:- 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 No.:33ABAPM6168J1ZK/2018-19 dated 08.01.2024 and the consequential order passed by the second respondent vide his Proc. No. A1/4712/2024, dated 29.11.2024 and quash the same as it is illegal, without jurisdiction and in gross violation of Principles of Natural Justice and further direct the first respondent to re-do the assessment afresh after providing an opportunity of Personal Hearing as per the provisions of the GST Act.

PRAYER IN W.P.(MD)No.6909 of 2025:- 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 No.:33ABAPM6168J1ZK/2019-20 dated 08.01.2024 and the consequential order passed by the second respondent vide his Proc. No. A1/4710/2024, dated 29.11.2024 and quash the same as it is illegal, without jurisdiction and in gross violation of Principles of Natural Justice and further direct the first respondent to re-do the assessment afresh after providing an opportunity of Personal Hearing as per the provisions of the GST Act.

PRAYER IN W.P.(MD)No.6910 of 2025:- 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 No.:33ABAPM6168J1ZK/2020-21 dated 08.01.2024 and the consequential order passed by the second respondent vide his Proc. No. A1/4723/2024, dated 29.11.2024 and quash the same as it is illegal, without jurisdiction and in gross violation of Principles of Natural Justice and further direct the first respondent to re-do the assessment afresh after providing an opportunity of Personal Hearing as per the provisions of the GST Act.

For Petitioner in all the W.Ps. : Mr.A.Satheesh Murugan

For Respondents in all the W.ps.: Mr.J.K.Jayaselan
Government Advocate

COMMON ORDER

These writ petitions have been filed challenging the assessment orders passed by the first respondent, dated 08.01.2024, for the years 2017-2018 to 2020-2021 and the consequential orders passed by the second respondent, dated 29.11.2024.

2. The learned counsel for the petitioner submits that the petitioner, aggrieved by the impugned assessment orders passed by the first respondent on 08.01.2024 for the years 2017-2018 to 2020-2021, has filed appeals on

05.04.2024 before the second respondent within the prescribed time limit. However, 10% of the pre-deposit amount was not paid to the Department at the time of filing the appeals due to inadvertence. As a result, the second respondent passed rejection orders on 29.11.2024, stating that the pre-deposit amount was not paid by the petitioner as per Section 107(6)(b) of the GST Act, without providing sufficient opportunity of hearing to the petitioner, which is in gross violation of the principles of natural justice.

3. Mr.J.K.Jayaselan, learned Government Advocate appearing for the respondents submits that the rejection orders passed by the second respondent are in accordance with the provisions of the GST Act, specifically Section 107(6)(b), which mandates the payment of the pre-deposit amount as a condition precedent for the hearing of the appeal. The petitioner has failed to comply with this statutory requirement by not paying the pre-deposit amount at the time of filing the appeals. The failure to make the pre-deposit within the prescribed time limit is a clear violation of the statutory provisions and thus, the rejection of the appeals is justified. Furthermore, the petitioner had sufficient opportunity to make the pre-deposit and cannot now seek to bypass this requirement.

4. Heard both sides.

5. After considering the submissions of both parties, this Court is of the opinion that the petitioner's failure to deposit the pre-deposit amount at the time of filing the appeals was due to inadvertence. In the interest of justice, the petitioner is directed to deposit the required pre-deposit amount within a period of two weeks from the date of receipt of a copy of this order. Upon receipt of such payment, the second respondent is directed to restore the appeals on file and pass appropriate orders on merits and in accordance with law, after giving due opportunity of hearing to the petitioner, within a period of two months thereafter. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

14.03.2025

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

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

2.The Appellate Deputy Commissioner (ST),
GST Appeal, Tirunelveli Camp Office,
Tirunelveli.

VIVEK KUMAR SINGH, J.

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Common order in
W.P.(MD)Nos.6907 to 6910 of 2025

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