BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.7722 of 2025
and
W.M.P.(MD)Nos.5858 and 5860 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

-vs-

1.The Deputy State Tax Officer - 2,
Tuticorin III Assessment Circle,
Tuticorin.

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

PRAYER:- 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/2021-22 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.

For Petitioner	:	Mr.A.Satheesh Murugan
For Respondents	:	Mr.J.K.Jayaselan Government Advocate

ORDER

This writ petition has been filed challenging the assessment order passed by the first respondent, dated 08.01.2024, for the year 2021-2022 and the consequential order 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 order passed by the first respondent on 08.01.2024 for the year 2021-2022, has filed an appeal 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 appeal due to inadvertence. As a result, the second respondent passed rejection order 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 order passed by the second respondent is 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 appeal. 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 appeal 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 appeal 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 appeal 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.

21.03.2025

NCC : Yes / No
Index : Yes / No
smn2

To:-

1.The Deputy State Tax Officer - 2,
Tuticorin III Assessment Circle,
Tuticorin.

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

VIVEK KUMAR SINGH, J.

smn2

W.P.(MD)No.7722 of 2025

21.03.2025