BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.9331 of 2025
and
W.M.P.(MD)No.6972 of 2025

Tvl. Sri Vaari Packers,
Represented by its Partner,
T.Mohisha, D/o.T.Thirumoorthy,
No.17, Technovalley, Natham Road,
Dindigul - 624 003. ... Petitioner

-vs-

1.The Commissioner of Commercial Taxes,
O/o. the Principal and Special Commissioner
of Commercial Taxes, Ezhilagam,
Chepauk, Chennai - 600 005.

2.The Deputy State Tax Officer – 2,
Dindigul Fort Assessment Circle,
Commercial Taxes Building,
Sub Collector Officer Road,
Dindigul – 624 001. ... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, seeking issuance of a Writ of Certiorari, to call for the records pertaining to the impugned order of the second respondent in GSTIN: GSTIN. 33ACWFS8656G1ZD/2019-20, dated 23.07.2024 and quash the same.

For Petitioner : Mr.B.Rooban

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

ORDER

This Writ Petition is filed challenging the assessment order passed by the second respondent, dated 23.07.2024, for the Assessment Year 2019-2020.

2. With the consent of both sides, this Writ Petition is taken up for final disposal at the admission stage itself.

3. The learned counsel appearing for the petitioner submits that the Petitioner is engaged in the sale of packing materials and the Input Tax Credit (ITC) claimed by her is in order. However, the second respondent passed the impugned order without properly considering the same, having estimated an alleged excess claim of ITC and demanded the said amount. However, there is no excess claim of ITC as alleged by the second respondent. Furthermore, the second respondent has failed to duly serve the notices and the impugned order as required under the GST Act, thereby depriving the petitioner of an opportunity to offer her explanations. Therefore, the impugned order is unjustified and deserves to be set aside.

4. Mr.J.K.Jayaselan, learned Government Advocate appearing for the respondents submits that the impugned assessment order has been passed after issuing show cause notice in DRC 01 to the petitioner on 24.05.2024, followed by personal hearing notices, dated 24.06.2024, 01.07.2024 and 08.07.2024 and therefore, there is no need to interfere with the impugned order. He further submits that the petitioner is having an appeal remedy before the appellate Deputy Commissioner, Madurai, 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 appellate Deputy Commissioner, Madurai, 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. There shall be no order as to costs.

Consequently, connected Miscellaneous Petition is closed.

NCC : Yes / No
Index : Yes / No
smn2

04.04.2025

To:-

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Dindigul – 624 001.

VIVEK KUMAR SINGH, J.

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W.P.(MD)No.9331 of 2025

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