BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.9519 of 2025
and
W.M.P.(MD)Nos.7120 and 7122 of 2025

Barani Hotels,
Represented by its Partner,
S.Saravanan,
No.29, Madurai Road, Tirunelveli Junction,
Tirunelveli - 627 001. ... Petitioner

-vs-

The State Tax Officer (ST) / The Commercial Tax Officer,
Tirunelveli Junction Assessment Circle,
Commercial Taxes Department Building,
A.R. Line Road, Palayamkottai,
Tirunelveli – 627 002. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records from the file of respondent in impugned assessment order Reference No.ZD3308242568913 in GSTIN/ID – 33AABFB4659F1ZQ, dated 28.08.2024, passed for the F.Y.2019-20 and quash the same as illegal, arbitrary and violative of principles of natural justice.

For Petitioner : Mr.R.Ananth
for Mr.K.S.Prakash
For Respondent : Mr.J.K.Jayaselan
Government Advocate

ORDER

This writ petition is filed challenging the assessment order passed by the respondent on 28.08.2024, for the Assessment Year 2019-2020, which was subsequently confirmed by the rectification order passed by the respondent on 22.03.2025.

2. The learned counsel for the petitioner submits that the petitioner has engaged in the hotel business, which is registered under the Tamil Nadu Goods and Services Tax Act, 2017 and has been consistently filing GST returns. However, upon scrutiny of the GST returns for the financial year 2019-2020, the respondent issued a show cause notice alleging discrepancies, including mismatches in output tax, input tax credit (ITC), Tax Collected at Source (TCS), e-way bill violations, interest for late filing and non-filing of the annual return.

3. The learned counsel for the petitioner further submits that the petitioner had delegated GST-related tasks to a part-time consultant, who failed to respond to the notice, resulting in issuance of the impugned order dated 28.08.2024, without providing an opportunity for fair hearing, as the order was passed solely through the GST portal's 'View Additional Notices and Orders' tab. Subsequently, the petitioner, upon came to know about the assessment order, filed a rectification petition on 19.03.2025 under Section 161 of the TNGST Act, explaining that the ITC mismatch was due to the delayed GSTR-1 filing by suppliers and a classification error in reporting e-commerce sales. Despite paying the interest amount through DRC-03, the petition was rejected on the ground that the same was filed beyond the statutory period of three months. The learned counsel for the petitioner also contends that the impugned order dated 28.08.2024 violates the principles of natural justice, as it was passed without due process. Therefore, the impugned order should be quashed in the interest of justice.

4. Mr.J.K.Jayaselan, learned Government Advocate appearing for the respondent submits that the petitioner is having an appeal remedy before the Deputy Commissioner (GST Appeal), Tirunelveli, 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 Deputy Commissioner (GST Appeal), Tirunelveli, 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. In the interregnum, the respondent shall maintain status quo prevailing as on date. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

04.04.2025

NCC : Yes / No
Index : Yes / No
smn2

To:-

The State Tax Officer (ST) / The Commercial Tax Officer,
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Tirunelveli – 627 002.

VIVEK KUMAR SINGH, J.

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W.P.(MD)No.9519 of 2025

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