BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.12484 of 2025
and
W.M.P.(MD)No.9091 of 2025

D.Justin Kumar ... Petitioner

-vs-

The State Tax Officer,
Kuzhithurai Assessment Circle,
Kuzhithurai, Kanyakumari District. ... Respondent

[The respondent is *suo motu* substituted vide
order dated 28.04.2025 in
W.P.(MD)No.12484 of 2025]

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, seeking issuance of a Writ of Certiorari, calling for the records in the impugned Order in GSTIN : 33AEWPJ4415Q1ZV/ 2022-23 dated 24.06.2024 issued by the respondent and quash the same as it is without jurisdiction and clear violation of statutory provisions.

For Petitioner : Mr.S.Karunakar

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

ORDER

The learned Government Advocate appearing for the respondent submits that instead of arraying the State Tax Officer, Kuzhithurai Assessment Circle, Kuzhithurai, Kanyakumari District as respondent, the petitioner has wrongly arrayed the Assistant Commissioner of CGST and C.Excise, Tirunelveli Division as respondent.

2. In view of the above said submission, this Court is inclined to *suo motu* substitute the respondent as follows:-

"The State Tax Officer,
Kuzhithurai Assessment Circle,
Kuzhithurai, Kanyakumari District."

Registry is directed to carry out necessary amendment in the cause title.

3. This Writ Petition is filed challenging the assessment order passed by the respondent, dated 24.06.2024, for the Assessment Year 2022-2023.

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

5. The learned counsel appearing for the petitioner submits that due to ill-health and requiring periodic treatment for his health ailments, the petitioner was unable to fully concentrate on business activities. The petitioner was under the *bona fide* belief that the part-time accountant would ensure compliance with all statutory requirements. However, the accountant failed to do so. Hence, the petitioner was unable to participate in the adjudication proceedings, which resulted in the issuance of the ex parte impugned order.

6. Mr.J.K.Jayaselan, learned Government Advocate appearing for the respondent submits that the impugned assessment order has been passed after issuing show cause notice to the petitioner on 18.04.2024, followed by personal hearing notices, dated 07.05.2024 and 13.06.2024 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 (GST), Tirunelveli, under Section 107 of the GST Act, 2017. However, without invoking the appeal remedy, the petitioner has straightaway approached this Court.

7. Recording the submission made by the learned Government Advocate that the petitioner is having an appeal remedy before the appellate Deputy

Commissioner (GST), 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 same shall be entertained by the appellate authority without reference to the period of limitation and disposed of in accordance with law, within a period of four months thereafter. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

28.04.2025

NCC : Yes / No
Index : Yes / No
smn2

To:-

The State Tax Officer,
Kuzhithurai Assessment Circle,
Kuzhithurai, Kanyakumari District.

VIVEK KUMAR SINGH, J.

smn2

W.P.(MD)No.12484 of 2025

28.04.2025