BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.11760 of 2025
and
W.M.P.(MD)No.8678 of 2025

M/s.Nesam Provision,
Represented by its Authorised Signatory,
Ahamed Arabu Ismail,
GSTIN 33AXRPA8973C1ZC,
5-1-140 - 141, NA, Madurai Main Road,
Nilakottai Taluk - 624202. ... Petitioner

-vs-

The Deputy State Tax Officer,
Nilakottai Assessment Circle,
C.T.Buildings,
Nilakottai. ... Respondent

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent in Reference No.33AXRPA8973C1ZC / 2017-18 dated 31.12.2023 for the Assessment Year 2017-18 and to quash the same as illegal, arbitrary, wholly without jurisdiction and direct the respondent to issue notice to the petitioner then pass an assessment order afresh after affording an sufficient opportunity within such time as may be directed by this Court.

For Petitioner : Mr.N.Sudalai Muthu

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

ORDER

This Writ Petition is filed challenging the assessment order passed by the respondent, dated 31.12.2023, for the Assessment Year 2017-2018.

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 all communications, including notices and orders, were uploaded only on the GST portal, without any physical or alternative mode of service as mandated under Section 169 of the GST Act. Due to cessation of business and the disengagement of the part-time accountant, who was handling GST matters, the petitioner remained unaware of the proceedings, which culminated in an ex parte order. Furthermore, a sum of Rs.1,79,000/- was encashed by the respondent from the petitioner's bank account on 24.04.2025. Therefore, the order impugned in this writ petition, is liable to be set aside.

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 (Appeal), 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 has an appellate remedy before the Deputy Commissioner (Appeals), Madurai, under Section 107 of the GST Act, 2017, this writ petition is disposed of, granting liberty to the petitioner to approach the appellate authority and raise all the grounds urged in this writ petition before the said authority. In the event of 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 same without reference to the period of limitation and without insisting upon the 10% pre-deposit. The said pre-deposit may instead be adjusted against the sum of Rs.1,79,000/-, which has already been encashed from the petitioner's bank account. The appellate authority shall dispose of the appeal on merits and 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.

25.04.2025

NCC : Yes / No
Index : Yes / No
smn2

To:-

The Deputy State Tax Officer,
Nilakottai Assessment Circle,
C.T.Buildings,
Nilakottai.

VIVEK KUMAR SINGH, J.

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W.P.(MD)No.11760 of 2025

25.04.2025