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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD)No.15949 of 2025
and
W.M.P(MD)No.12075 of 2025

Anilkumar ... Petitioner

Vs.

1.The Deputy Commissioner (GST Appeal),
CT Buildings,
A.R Line Road,
Palayamkottai,
Thirunelveli

2.The State Tax Officer 4 (Ins),
Office of the Joint Commissioner (IW),
Tirunelveli. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order in GSTIN 33AJQPP4461M1ZM/2020-21 to 23-24 dated 17.12.2024 on the file of the second respondent and quash the same and consequently direct the respondents to refund the tax collected from petitioner forcibly without any authority of law.

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For Petitioner : Mr.I.Romeo Roy Alfred

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

ORDER

This writ petition has been filed against the impugned order, dated 17.12.2024 passed by the second respondent and consequently direct the respondents to refund the tax collected from petitioner.

2. The impugned order preceded notice in DRC-01A, dated 29.07.2024 and the notice in DRC-01, dated 12.09.2024, to which the petitioner has also submitted a reply on 10.10.2024. The petitioner also appeared for a personal hearing, after which the impugned order was passed. The impugned order is a detailed order and concluded that the petitioner is in arrears of Rs.64,65,506/- including interest and penalty as detailed below:

Tax period	Act	Tax/cess	Interest	Penalty	Fees	Others	Total
Total		4549904	1461162	454940	0	0	6465506

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3. It is the specific case of the petitioner that the petitioner's reply has not been considered and therefore, the impugned order is liable to be quashed as arbitrary and in violation of principles of natural justice.

4. The learned Government Advocate for the respondents, on the other hand, submits that the impugned order is a detailed order and it considers the petitioner's reply, dated 10.10.2024 and also the submissions made during the personal hearing that preceded the impugned order. It is submitted that the petitioner is not entitled to file statutory appeal in the light of ***Singh enterprises Vs CCE*** reported in ***(2008) 3 SCC 70*** and in the case of ***CCE and Customs Vs.Hongo India (P) Limited*** reported in ***(2009) 5 SCC 791***.

5. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate for the respondents.

6. Considering the time limit prescribed for filing the appeal and date of presentation of the writ petition, this Court is inclined to rescue the petitioner on terms:

(i) The petitioner having slept over his rights under Section 106 of the Goods and Services Tax Act shall deposit over and above 10% that is

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contemplated under Section 107 of the Goods and Services Tax Act. In other words, the petitioner shall pay 20% of the tax confirmed vide impugned order within a period of 15 days from the date of receipt of a copy of this order.

(ii) The petitioner shall file an appeal before the appellate authority within such time.

(iii) The appellate authority shall thereafter pass appropriate orders on merits in the proposed appeal without reference to the limitation.

7. The writ petition stands dismissed with the above liberty. In case, the petitioner failed to comply with the above stipulations, the respondents are at liberty to proceed further in furtherance of the impugned order as if the above liberty was not given to the petitioner. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

13.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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C.SARAVANAN, J.

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