BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.06.2025**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No. 17181 of 2025
and
W.M.P.(MD) Nos.13045 & 13046 of 2025

M/s.Saroj Associates,
rep. by its Proprietor V.Ramesh Kumar. ... Petitioner

Vs

1. The Assistant Commissioner (ST),
Kumbakonam Town Assessment Circle,
C.T. Buildings, Kumbakonam.

2. The Appellate Deputy Commissioner (ST),
GST Appeal, Trichy. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of to call for the records on the file of the first respondent in GSTIN. 33AIGPR1745M1ZZ/2017-18, dated 20.03.2024 for the assessment year 2017-18 passed by the first respondent under section 74 of TNGST Act, 2017 and consequential rejection order of appeal in ARN AD330325116240S, dated 08.04.2025 issued by the second respondent and to quash the both as cryptic, non-speaking, illegal, arbitrary, wholly without jurisdiction and direct the respondent to pass order afresh after affording opportunity of personal hearing as contemplated under section 75(4) of the TNGST Act 2017.

For petitioner : Mr. N. Sudalai Muthu

For respondents : Mr.R.Suresh Kumar
Additional Government Pleader

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ORDER

This Writ Petition is disposed of at the time of admission after hearing the learned counsel for the petitioner and learned Additional Government Pleader for the respondents.

2. It is the case of the petitioner that after the petitioner suffered the impugned Assessment Order, dated 20.03.2024, the petitioner has discharged the tax liability on 01.04.2024, thereafter, the interest on 04.04.2024. Thereafter, the petitioner filed an appeal before the Appellate Commissioner on 17.04.2024.

3. It is further case of the petitioner that based on the wrong advice, the petitioner withdrew the appeal. Knowing that the petitioner will not be able to

settle the case under Amnesty Scheme announced by the Government in 2024, the petitioner filed a fresh appeal against the impugned order, dated 21.03.2025, which has been rejected by an order, dated 08.04.2025 holding that the appeal filed was beyond the period of limitation. Dismissal of the second appeal filed on 21.03.2025 against the impugned order, dated 08.04.2025 cannot be questioned, in view of the decision of the Hon'ble Supreme Court in the case 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.*** The fact remains that the petitioner's earlier appeal that was filed on 17.04.2024 was withdrawn to avail the benefit of the Amnesty Scheme based on the wrong advice. The fact remains that the concern of the petitioner has not been redressed.

4. The statement that the petitioner will not press for refund of tax paid by the petitioner, stands recorded.

5. Considering the fact that the petitioner has also discharged the tax liability and interest, Court is inclined to balance the interest of the revenue as also the petitioner by remitting the case to the first respondent re-consider the

impugned order insofar as the imposition of penalty under Section 74 of the respective GST enactment alone.

6. This exercise shall be completed as expeditiously as possible preferably within a period of three (3) months from the date of receipt of a copy of this order.

7. This Writ Petition is disposed of, with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

25.06.2025

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

apd

W.P.(MD) No. 17181 of 2025

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