BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.07.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD) No.18365 of 2025
and
W.M.P(MD) No.14082 of 2025

M/s.JR Enterprises,
Represented by its Proprietor P.Janakiraman,
33APBPJ0276K3ZL,
65/9, Siva Complex, Main Road,
Parappai, Nanguneri Taluk,
Tirunelveli District. ... Petitioner

Vs.

1.The State Tax Officer,
Commercial Tax Buildings,
Nanguneri.

2.The Deputy Commissioner,
GST Appeal,
Tirunelveli. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records in the impugned Order in Form DRC 07 Ref.No. ZD330225135125W dated 14.02.2025 followed by the order of rejection of application for rectification in Ref.No. ZD330425217119M dated 29.04.2025 issued by the Respondent and quash the same as it is without jurisdiction and clear violation of statutory provisions of the Act.

For Petitioner : Mr. S Karunakar

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

ORDER

Heard the learned counsel for the petitioner and the learned counsel for the respondent in this Writ Petition.

2. The petitioner has challenged the impugned order, dated 14.02.2025 passed by the respondent in GST DRC 07. The impugned order, dated 14.02.2025 is the summary of order in Form GST DRC 07 dated 13.02.2025 for the tax period from April 2020 to March 2021. The rejection order, dated 29.04.2025 has been passed by the respondent in response to the application filed by the petitioner, dated 03.04.2025 under Section 161 of the respective GST Act as the second impugned order is read as under:

> *"3. The issue raised by the dealer cannot be decided under Section 161 of TNGST Act 2017, as the error which is not apparent on the face of record. The Hon'ble Supreme Court of India in the case of Satyanarayan Laxminarayan Hegde and Others*

Mallikarjun Bhavanappa Tirumale (AIR 1960 SC 137), had considered the scope of the words "error apparent on the face of the record"and explained that an error which has to be established by a long drawn process of reasoning on points where there may conceivably be two opinions, can hardly be said to be an error apparent on the face of the record. It was further observed that when the error alleged is far from self-evident and can be established, only by lengthy and complicated arguments, such an error cannot be regarded as an error apparent on the face of the record.

In view of the above, the application filed by the tax payer under Section 161 of TNGST Act, is hereby rejected."

3. A specific case of the petitioner is that earlier the petitioner has suffered by an adverse order passed in Form GST DRC 07 on 30.11.2024 for the same period in respect of the discrepancy and it is the subject matter of the order dated 13.02.2025 in GST DRC 07, for which, summary was issued on 14.02.2025 in respect of the application filed by the petitioner and the same is rejected on 29.04.2025. It is submitted that the petitioner has filed an appeal

before the Appellate Commissioner against the orders, dated 30.11.2024 and 28.02.2025.

4. Having considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondent, there is no scope for initiation of second proceedings in respect of the issue, which is already covered by order, which was passed earlier. If there is an error apparent on face of record, it is for the department for correcting the same by passing an order under 161 of TNGST Act. Instead, the petitioner has been subjected to fresh proceedings in GST DRC 01, dated 25.11.2024 which has culminated in impugned order in Form GST DRC 07, dated 13.02.2025, in respect of which, summary of the order was issued on 14.02.2025 and it has been wrongly rejected by the order, dated 29.04.2025. In event, powers of the Appellate Commissioner under GST Act are wide enough to deal with the situation. Therefore, this Court *suo-motu* impleads the Deputy Commissioner, GST Appeal, Tirunelveli as second respondent in this Writ Petition. Therefore, while quashing the impugned order, liberty is given to the second respondent to pass appropriate order to incorporate the proposed demand in the impugned order after hearing the petitioner. The appellate commissioner shall consider the submission to be made by the petitioner and pass consolidated order. It is open

to the petitioner to make submissions before the appellate Commissioner.

5. With the above directions, this Writ Petition stands disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

07.07.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Indu

To

1.The State Tax Officer,
Commercial Tax Buildings,
Nanguneri.

2.The Deputy Commissioner,
GST Appeal,
Tirunelveli.

C.SARAVANAN, J.

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