BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A(MD)Nos.2341 to 2344 of 2025
and
C.M.P(MD)Nos.13243, 13248, 13249, 13251 of 2025

Tvl.DRA.SP.VM.Joint Venture,
Rep. by its Partner Mr.V.Manoharan,
No.6, Raja Dhinagar Palace,
East Street, Ramanathapuram,
Tamil Nadu-623 501. ... Appellant/Petitioner
in all the writ appeals

Vs.

The State Tax Officer,
Ramanathapuram Assessment Circle,
Ramanathapuram. ...Respondent/Respondent
in all the writ appeals

PRAYER in all the writ appeals: Writ Appeals filed under Clause XV of the Letters Patent Appeal, to set aside the orders dated 02.04.2025 passed in W.P(MD)Nos.5023 of 2025, 5022 of 2025, 5020 of 2025 and 5021 of 2025.

For Appellant : Mr.Raja Karthikeyan
For Respondent : Mr.R.Sureshkumar
Additional Government Pleader

COMMON JUDGMENT

(Judgement of the Court was delivered by ***G.ARUL MURUGAN, J.***)

We have heard the learned counsel appearing for the appellant and Mr.R.Sureshkumar, learned Additional Government Pleader appearing for the respondent.

2. These intra court appeals have been instituted as against the orders dated 02.04.2025 passed in W.P(MD)Nos.5023 of 2025, 5022 of 2025, 5020 of 2025 and 5021 of 2025, wherein, the claim of the appellant was rejected and the appellant was relegated to approach the appellate authority under Section 107 of the GST Act, 2017.

3.It is the contention of the learned counsel for the appellant that pursuant to the assessment order, *suo motu* rectification proceedings were initiated and the authority disposed of the same, without affording reasonable opportunities to the appellant and therefore, the petitioner had approached the Writ Court challenging both the Assessment Orders and the orders passed in the *suo motu* rectification proceedings wherein, penalty was included.

4. It is the further contention of the learned counsel for the appellant that when the *suo motu* rectification proceedings have been dealt with by not providing any opportunity, the appellant is entitled to redress his grievances by filing the writ petitions invoking under Article 226 of the Constitution of India and when the writ petitions are maintainable, the learned Single Judge has erroneously dismissed the writ petitions and as such, he has come up with the instant writ appeals.

5. The learned Additional Government Pleader appearing for the respondent contended that when there is an efficacious remedy available for the appellant provided under Section 107 of the GST Act, the writ petitions filed by the petitioner without invoking the statutory appeal is not maintainable. Further, the learned Additional Government Pleader submitted that sufficient opportunities were granted to the appellant at the time of the assessment proceedings and only pursuant to which, an order of assessment came to be passed. Only to avoid the

deposit to be made in the appeal, which is mandatory under the statute, the petitioner had come up with the writ petitions to avoid the statutory liability which is not maintainable.

6. Heard the submissions made by both sides and perused the materials available on record.

7. In respect of the returns filed by the appellant, assessment proceedings were initiated and the notice dated 22.05.2024, 10.06.2024 and 19.06.2024 were issued for personal hearing of the appellant. Pursuant to the notices issued, the appellant was heard and thereafter, the respondent herein had issued the assessment order dated 23.07.2024. Subsequently, *suo motu* rectification proceedings came to be initiated, wherein, additionally penalty came to be imposed. Challenging both the assessment order and the rectification order, the appellant had preferred the Writ Petition. Admittedly, as against the assessment order passed, there is a statutory appeal provided under Section 107 of TNGST, Act.

8. While the appellant is having an efficacious alternative remedy open under section 107 of the GST Act, the present writ petitions instituted by the appellant as against the assessment order and the *suo motu* rectification proceedings in the writ petition without exhausting the appellate remedy is not maintainable. When there is a statutory appeal remedy provided under the Act, all the issues can be raised before the statutory authority including the legal issues raised herein and the authorities while considering the appeal will deal with all the issues that are raised in the appeal.

9. The legal principles regarding the importance of exhausting the appellate remedy contemplated under the special enactments are well considered by the Honourable Supreme Court of India in the case of ***Celir LLP Vs. Bafna Motors (Mumbai) Private Limited and others,*** reported in ***(2024) 2 SCC 1***. *Paragraph Nos.97, 98, 110 and 110.1 of the said decision would be relevant in this context and they have been extracted hereunder:-*

> *"97.This Court has time and again, reminded the High Courts that they should not entertain petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person under the provisions of the SARFAESI Act. This Court in Satyawati Tondon [United Bank of India v. Satyawati Tondon,*

(2010) 8 SCC 110 : (2010) 3 SCC (Civ) 260] made the following observations : (SCC pp. 123 & 128, paras 43-45 & 55)

"43. Unfortunately, the High Court [Satyawati Tondon v. State of U.P., 2009 SCC OnLine All 2608] overlooked the settled law that the High Court will ordinarily not entertain a petition under Article 226 of the Constitution if an effective remedy is available to the aggrieved person and that this rule applies with greater rigour in matters involving recovery of taxes, cess, fees, other types of public money and the dues of banks and other financial institutions. In our view, while dealing with the petitions involving challenge to the action taken for recovery of the public dues, etc. the High Court must keep in mind that the legislations enacted by Parliament and State Legislatures for recovery of such dues are a code unto themselves inasmuch as they not only contain comprehensive procedure for recovery of the dues but also envisage constitution of quasi-judicial bodies for redressal of the grievance of any aggrieved person. Therefore, in all such cases, the High Court must insist that before availing remedy under Article 226 of the Constitution, a person must exhaust the remedies available under the relevant statute.

44. While expressing the aforesaid view, we are conscious that the powers conferred upon the High Court *under Article 226 of the Constitution to issue to any person or authority, including in appropriate cases, any Government, directions, orders or writs including the five prerogative writs for the enforcement of any of the rights conferred by Part III or for any other purpose are very wide and there is no express limitation on exercise of that power but, at the same time, we cannot be oblivious of the rules of self-imposed restraint evolved by this Court, which every High Court is bound to keep in view while exercising power under Article 226 of the Constitution.*

45. It is true that the rule of exhaustion of alternative remedy is a rule of discretion and not one of compulsion, but it is difficult to fathom any reason why the High Court should entertain a petition filed under Article 226 of the Constitution and pass interim order ignoring the fact that the petitioner can avail effective alternative remedy by filing application, appeal, revision, etc. and the particular legislation contains a detailed mechanism for redressal of his grievance.

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55. It is a matter of serious concern that despite repeated pronouncement of this Court, the High Courts continue to ignore the availability of statutory remedies under the DRT Act and the Sarfaesi Act and exercise jurisdiction under Article 226 for passing orders which *have serious adverse impact on the right of banks and other financial institutions to recover their dues. We hope and trust that in future the High Courts will exercise their discretion in such matters with greater caution, care and circumspection."*

98.In CIT v. Chhabil Dass Agarwal [CIT v. Chhabil Dass Agarwal, (2014) 1 SCC 603] , this Court in para 15 made the following observations : (SCC p. 611, para 15)

"15. Thus, while it can be said that this Court has recognised some exceptions to the rule of alternative remedy i.e. where the statutory authority has not acted in accordance with the provisions of the enactment in question, or in defiance of the fundamental principles of judicial procedure, or has resorted to invoke the provisions which are repealed, or when an order has been passed in total violation of the principles of natural justice, the proposition laid down in Thansingh Nathmal case [Thansingh Nathmal v. Supdt. of Taxes, 1964 SCC OnLine SC 13] , Titaghur Paper Mills case [Titaghur Paper Mills Co. Ltd. v. State of Orissa, (1983) 2 SCC 433 : 1983 SCC (Tax) 131] and other similar judgments that the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the

action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field. Therefore, when a statutory forum is created by law for redressal of grievances, a writ petition should not be entertained ignoring the statutory dispensation."

110.We summarise our final conclusion as under:

110.1. The High Court was not justified in exercising its writ jurisdiction under Article 226 of the Constitution more particularly when the borrowers had already availed the alternative remedy available to them under Section 17 of the SARFAESI Act."

10. In in view of the above deliberations since the Writ Court had given liberty to the appellant to invoke the Appellate Authority under Section 107 of the GST Act, the relief sought for in the writ appeals cannot be entertained.

11. The learned Single Judge had rightly by noticing the provisions and also finding that there is a statutory appeal remedy available for the appellant dismissed the writ petitions. We do not find any infirmity in the orders passed by the Writ Court.

12. Accordingly, the writ appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S., J.) & (G.A.M., J.)
18.08.2025

NCC : Yes / No
Index : Yes / No
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To

The State Tax Officer,
Ramanathapuram Assessment Circle,
Ramanathapuram.

S.M.SUBRAMANIAM, J.

AND

G.ARUL MURUGAN, J.

am

W.A(MD)Nos.2341 to 2344 of 2025

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