BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 12/03/2025

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs. JUSTICE S.SRIMATHY

WA(MD). No.342 of 2025
and CMP(MD) No.2802 of 2025

The Joint Commissioner
O/o.The Joint Commissioner of CGST and Central Excise
GST Bhavan, Tractor Road, NGO 'A' Colony
Tirunelveli 627 007. ... Appellant

v.

S.Chidambara Karthikeyan ... Respondent

PRAYER :- Writ Appeal filed under Clause 15 of Letters patent against the order of this Court dated 24.06.2024 in WP(MD). No.15346/2021.

For Appellants : Mr.N.Dilipkumar
For Respondent : Mr.R.Sivaraman

JUDGMENT

(Judgment of the Court was delivered by J.NISHA BANU,J.)

The writ appeal is directed against the order of the writ Court dated 24.06.2024 in WP(MD) No.15346 of 2021.

2. The respondent in the writ petition is the appellant herein.

3. The learned counsel for the appellant would urge the following grounds:

(i) When an alternative remedy of appeal is provided for under Section 85 of the Finance Act, the learned Single Judge, without considering the same, had allowed the writ petition by setting aside the impugned order therein ;

(ii) The writ petition filed against the order of the appellant without exhausting the appeal remedy is per se illegal;

(iii) The writ Court has allowed the writ petition on the ground that no stay was granted by the tribunal and hence, there is no justification in the order passed by the writ Court; and

(iv) Mere filing of an appeal against the original order cannot be said to be a ground until the original order is recalled or modified or varied in appeal;

4. Heard the learned counsel for the writ petitioner/respondent. He would submit that they have preferred an appeal against the original assessment order dated 25.10.2018 and hence, a direction may be issued to dispose the appeal.

5. We have heard the rival submissions and perused the materials available on record.

6. Without going into the merits or the contentions of the learned counsel on both sides, in order to give a quietus to the issue, the order in original dated 12.07.2021 challenged in the writ petition shall be kept in abeyance till the appeal filed by the respondent is disposed of.

7. In view of the above, the writ appeal is disposed of with a direction to the appellate authority to dispose of the appeal in Appeal No.ST/40415/2020 within a period of eight weeks from the date of receipt of a copy of this judgment. No costs. Consequently connected Miscellaneous Petition is closed.

[J.N.B.,J] **[S.S.Y.,J]**

12.03.2025

NCC : Yes/No
Index : Yes/No

RR

To
The Joint Commissioner
O/o.The Joint Commissioner of CGST and Central Excise
GST Bhavan, Tractor Road, NGO 'A' Colony
Tirunelveli 627 007.

J.NISHA BANU, J
AND
S.SRIMATHY, J.

RR

ORDER
IN
WA(MD) No.342 of 2025

Date : 12/03/2025