BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Writ Petition(MD)No.22849 of 2025
and
W.M.P(MD)No.17916 of 2025

M/s. Matha Agency,
Rep. by its Proprietor P.Antonydass,
33AFCPA2608F1ZA,
TS 389/P RS967/P261B,
100 Feet Road South,
Karaikudi.

... Petitioner

Vs.

The Commercial Tax Officer,
Karaikudi Assessment Circle,
Karaikudi

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records in the Impugned Order in Ref.No. ZD330225107547M dated 12.02.2025 and subsequent rectification order in Ref.No.ZD330425080043S dated 09.04.2025 issued by the Respondent and quash the same as it is without jurisdiction and clear violation of statutory provisions.

For Petitioner : Mr.S.Karunakar
For Respondent : Mr.R.Suresh Kumar
Addl. Govt. Pleader

ORDER

Mr.R.Sureshkumar, learned Additional Government Pleader, takes notice for the respondent. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner has challenged the impugned order dated 12.02.2025 passed by the respondent under Section 73 of the respective GST enactments for the tax period between April 2020 and March 2021. Aggrieved by the same, the petitioner filed an application for rectification under Section 161 of the respective enactments, which has been partly allowed and partly rejected by the subsequent order dated 09.04.2025.

3. The learned counsel for the petitioner submitted that the impugned order is liable to be quashed since the petitioner's representation has not been duly considered.

4. On the other hand, the learned Additional Government Pleader appearing for the respondent submitted that the petitioner has an alternative remedy under Section 107 of the respective enactments.

5. At this stage, learned counsel for the petitioner contended that the limitation for filing an appeal against the order dated 12.02.2025, insofar as the demand reaffirmed by the order dated 09.04.2025, would now be barred by limitation.

6. I have considered the submissions of both learned counsel.

7. The contention of the petitioner that no effective alternative remedy is available under Section 107 of the respective enactments cannot be accepted. If it is the case of the petitioner that the rectification application filed against the order dated 12.02.2025 has been wrongly rejected vide order dated 09.04.2025, then the order dated 12.02.2025 would stand merged, and the petitioner would be entitled to file a statutory appeal under Section 107 against the order dated 09.04.2025, which has been passed under Section 161 of the Act. On the other hand, if it is the case of the petitioner that the order

dated 12.02.2025 has not merged, the petitioner is still not without remedy, as Section 14 of the Limitation Act, 1963 would apply. The time spent in pursuing the remedy bona fide before the respondent under Section 161 will inure to the petitioner.

8. Therefore, it is open to the petitioner to file a statutory appeal, excluding the period spent before the respondent under Section 161. Liberty is accordingly granted to the petitioner to workout his remedy before the Appellate Commissioner in terms of the above observations. In case such appeal is filed within a period of fifteen (15) days from the date of receipt of a copy of this order, the Appellate Commissioner shall consider and dispose of the same on its own merits, in accordance with law. Needless to state, the petitioner shall deposit 10% of the disputed tax, if the same has not already been recovered.

9. With the above observations and directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

21.08.2025

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

To

The Commercial Tax Officer,
Karaikudi Assessment Circle,
Karaikudi

C.SARAVANAN, J.

skn

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