BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2025

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD).No.112 of 2025
and
W.M.P.(MD)No.101 of 2025

M/s.Bhuvaneswari Stores,
Represeted by its Partner,
M.Subburaj ...Petitioner

Vs

The State Tax Officer,
Theni 2 Assessment Circle,
Commercial Tax Buildings,
Theni. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the files of the respondent in GSTIN 33AAGFB4060M1ZJ /2019-20 dated 27.08.2024 for the assessment year 2019-20 and quash the same as illegal, arbitrary, undue enrichment, without jurisdiction and in view of Amended/inserted Section 16(5) of the TNGST Act 2017 as amended by Finance (No.2) Act 2024 further direct the respondent to pass an assessment order afresh by considering the reply dated 1.7.2024 and records filed by the petitioner after affording opportunity of being heard.

For Petitioner : Mr.S.Karunakar

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

ORDER

Heard Mr.S.Karunakar, learned counsel for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader for the respondent.

2. The Writ Petition has been filed challenging the order of the first respondent 27.08.2024 passed for the F.Y. 2019-2020 on the ground that the same is made in violation of principles of natural justice.

3. The issue involved in the writ petition is to availing of Input Tax Credit after the due date. The said issue is no longer *res integra*. This Court in a batch of writ petitions in W.P.(MD)Nos.25081 of 2024 etc., dated 17.10.2024, by taking note of the amendment to Section 16(4) of the CGST Act which came into force with retrospective effect from 01.07.2017 had quashed the similar impugned orders and thereafter this

Court in a similar issue in WP(MD)No.31980 of 2024 dated 06.07.2024 taking note of the amendment passed, had set aside the order of assessment and remitted the matter back to the assessing officer for passing order afresh.

4. The said order has not been disputed by the learned Additional Government Pleader appearing for the respondent.

5. In view of the same, the impugned order dated 27.08.2024 is set aside and the matter is remitted back to the respondents for fresh consideration in consonance with the amended provision of Section 16 of the GST Act.

6. In fine, the Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

06.01.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

K.KUMARESH BABU, J.

Nsr

To:

The State Tax Officer,
Theni 2 Assessment Circle,
Commercial Tax Buildings,
Theni.

W.P.(MD).No.112 of 2025

06.01.2025