



W.P.No.35453 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.12.2023

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.35453 of 2023
and
W.M.P.No.35420 of 2023

Jak Communications Private Limited,
Rep by its Director Mr.J.Kamalesh,
No.J4, 6th Avenue, Anna Nagar East,
Chennai 600 102.

... Petitioner

Vs.

- 1.The Deputy Commercial Tax Officer,
Ayanavaram Zone IV, Chennai Central,
Tamil Nadu.
- 2.The Deputy State Tax Officer – I,
Ayanavaram Assessment Circle,
Office of the Assistant Commissioner (ST),
Ayanavaram Assessment Circle,
No.F-50, 3rd Floor, 1st Avenue, Anna Nagar East,
Chennai 600 102.
- 3.The Assistant Commissioner (ST),
Ayanavaram Assessment Circle,
No.F-50, 3rd Floor, 1st Avenue, Anna Nagar East,
Chennai 600 102.



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4.The Branch Manager, Axis Bank,
No.F/33, II Avenue,
Anna Nagar East, Chennai,
Tamil Nadu 600 102.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records in the impugned order passed by the 1st respondent bearing Ref. No.ZD3305231211416 dated 25.05.2023 along with Summary of the Order in FORM GST DRC-07 bearing Ref.No.ZD3305231211416 dated 25.05.2023 and the consequential impugned Caution Notice issued by the 2nd respondent bearing GSTIN: 33AABCJ1897N3Z3/2018-19, MA3308232367310 dated 28.08.2023 and quash the same as arbitrary, illegal and without jurisdiction.

For Petitioner : Mr.M.V.Swaroop,
for Ms.Rukmani Venugopalan

For Respondent : Ms.E.Ranganayaki,
Additional Government Pleader,
for R1 to R3

ORDER

This writ petition has been filed challenging the impugned order dated 25.05.2023 passed by the 1st respondent.



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2. Ms.E.Ranganayaki, learned Additional Government Pleader, takes notice on behalf of the respondents. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that prior to the passing of the impugned order dated 25.05.2023, all the notices dated 24.12.2021, 24.03.2023 and 15.05.2023 were uploaded by the respondent in their web portal in the “View Additional Notices and Order” column and the same were not served physically to the petitioner, due to which, the petitioner was unaware of the said notice. Therefore, he would contend that the said impugned order was passed in the violation of principles of natural justice since prior to the passing of the impugned order, neither opportunity for filing the reply nor the opportunity of personal hearing was provided by the respondent to the petitioner.

4. In reply, the learned counsel for the respondent would submit that though the notice was uploaded by the respondent in the web portal,



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the petitioner had failed to appear before the respondent for personal hearing. However, she would fairly submit that if any order is passed by this Court, the same will be complied with by the respondent.

5. Heard the learned counsel for the petitioner and the respondent and also perused the materials available on record.

6. In the present case, it appears that the notices dated 24.12.2021, 24.03.2023 and 15.05.2023 and the assessment order dated 25.05.2023 have been uploaded in the web portal in the “View Additional Notices and Orders” column and the same were not at all physically served to the petitioner, due to which, the petitioner was unaware about the said notice. Hence, the reasons provided by the petitioner for being unaware of the notice, which was uploaded in the web portal, are appears to be genuine.

7. Further, this Court is of the view that no order can be passed without providing sufficient opportunities to the petitioner. However, in



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the present case, no reply was filed by the petitioner and no opportunity of personal hearing was provided to the petitioner. Hence, the impugned order is liable to be set aside.

8. Accordingly, the impugned order dated 25.05.2023 is set aside. While setting aside the impugned order, this Court remits the matter back to the respondents. The petitioner is directed to file the reply to the show cause notice dated 24.03.2023 within a period of 21 days from the date of receipt of copy of this order. Thereafter, the respondent is directed to dispose of the matter after providing sufficient opportunities to the petitioner.

9. With the above directions, this writ petition is disposed of. No cost. Consequently, the connected miscellaneous petition is also closed.

19.12.2023

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

nsa



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WEB COPY To

- 1.The Chairman,
Tamil Nadu Generation and Distribution
Corporation Limited,
144, Anna Salai,
Chennai 600 002.
- 2.Chief Engineer,
Non-Conventional Energy Sources,
Tamil Nadu Generation and Distribution
Corporation Limited,
144, Anna Salai,
Chennai 600 002.
- 3.The Superintending Engineer,
TANGEDCO,
Coimbatore North Electricity Distribution Circle,
Coimbatore.



WEB COPY



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KRISHNAN RAMASAMY.J.,

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19.12.2023
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