IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.03.2025

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THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.Nos.393 & 437 of 2025
and W.M.P.Nos.450, 451, 511 & 512 of 2025

SAPP Enterprises,
Rep. by its Partner,
V.R.Pradeep,
No.1572/2, Mahalakshmi Nagar,
Madipakkam, Chennai – 600 091. .. Petitioner in both W.Ps

Vs.

The Assistant Commissioner (ST),
The Proper Officer,
Madipakkam Assessment Circle,
Tambaram Zone, Room No.229,
Integrated Buildings for Commercial Taxes,
Government Farm Village,
Nandanam, Chennai – 600 028. .. Respondent in both W.Ps

Prayer in W.P.No.393 of 2022:

Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorari, to call for the records from the file of the respondent in impugned order in Reference No.ZD330824062723C dated

08.08.2024 in GSTIN/ID: 33ACTFS0248M1ZN passed for the F.Y.2019-20 and quash the same as erroneous on facts and violative of principles of natural justice.

Prayer in W.P.No.437 of 2022:

Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorari, to call for the records from the file of the respondent in impugned order of rejection of application for rectification in Reference No. ZD331224184187E dated 21.12.2024 passed in GSTIN/Temp.ID: 33ACTFS0248M1ZN passed for the F.Y.2019-20 and quash the same as erroneous on facts and violative of principles of natural justice.

In both W.Ps

For Petitioner : Mr.R.Ananth
For Respondent : Ms.Amirta Poonkodi Dinakaran
Government Advocate (Taxes)

ORDER

These Writ Petitions have been filed by the petitioner seeking to call for the impugned assessment order dated 08.08.2024 and the impugned order of rejection application filed for rectification of the assessment order dated 21.12.2024 and to quash the same.

2.Learned counsel appearing for the petitioner would submit that, in the present case, the petitioner have not received any physical copy of show cause notice and also personal hearing notice. The show cause notice dated 20.05.2024 was uploaded in the GST Portal tab in view additional notices column and the petitioner had no ocassion to open the GST Portal. Even the impugned order dated 08.08.2024 was also uploaded in the view additional notices column, which is violation of principle of natural justice. Therafter, the petitioner filed an application for rectification of the assessment order dated 08.08.2024, which was came to be rejected by the respondent vide order dated 21.12.2024. He would further submit that the petitioner is ready and willing to pay 25% of the disputed tax demand in respect of the impugned assessment period and prayed to set aside the impugned order directing the respondent to permit the petitioner to file their reply and provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

3.Learned Government Advocate appearing for the respondent would submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of 25% of the disputed tax demand by the petitioner in respect of the impugned assessment period, if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.

4.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate and perused the materials available on record.

5.Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notices were issued through the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notice issued through the GST Portal and the original of the said show cause notice was not furnished to them. It appears that three reminders were also sent to the petitioner through the GST portal. When such being the case, this Court feels that when the respondent did not receive any reply/response from the petitioner for the show causes notice and the reminders and when the statute provide alternative mode for sending notices, it is a bounden duty of the respondent to choose an other effective mode of service instead of uploading the notices and the reminders on the common portal again and again. When such exercise is being carried out, the petitioner would have not come with the plea before his Court that they have not received any notices.

6.Thus, in such circumstances, this Court is of the view that the impugned order came to be passed without affording opportunity of personal hearing to the petitioner to establish their case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.

7.For the reasons stated above, this Court is inclined to set aside the impugned order dated 08.08.2024 and the order of rejection of application filed for rectification passed by the respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside on condition that the petitioner deposits 25% of the disputed tax amount in respect of the impugned assessment period, as agreed by the petitioner, promptly after the receipt of a copy of this order.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, on or before 18.03.2025.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same by fixing the date of personal hearing to the petitioner on or before 21.03.2025 and pass appropriate orders on merits and in accordance with law, after hearing the petitioner on or before 25.03.2025, so as to enable the petitioner to avail the scheme prescribed under Section 128(A) of the Central Goods and Services Tax Act, which is going to end on 31.03.2025.

8.With the above directions, these writ petitions are disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

13.03.2025

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Index : Yes/No
Neutral Citation: Yes/No
Note: Issue Order Copy Today

To:

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The Proper Officer,
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Tambaram Zone, Room No.229,
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KRISHNAN RAMASAMY, J.

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