IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 04-04-2025**

CORAM

**THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY**

**WP No. 1334 of 2024**
**AND**
**WP NO. 1383 OF 2024,WMP NO. 1413 OF 2024,WMP NO. 1414 OF 2024,WMP NO. 1364 OF 2024,WMP NO. 1366 OF 2024**

M/s. Kanta Enterprises,
Rep. By Its Prop. Bimal Kumar Mahnot,
Old No. 102 New No 200,
Ground Floor, Broadway, Chennai – 108.

Petitioner(s)
in both W.Ps

Vs

State Tax Officer,
Broad Way Assessment Circle,
3rd Floor, Wall Tax Road,
Room Nos.305, Chennai 03.

Respondent(s)
in both W.Ps

**PRAYER in W.P.No.1334 of 2024:-**Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records relating to the impugned order made in GSTN 33AAEPM0648J1ZT / 2017 - 2018 dated 12.10.2023, passed by the respondent and to quash the same.

**PRAYER in WP No. 1383 of 2024:-**Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records relating to the impugned order made in GSTIN 33AAEPM0648J1ZT / 2019-20 dated 05-10-2023, passed by the respondent and to quash the same.

**In both W.Ps**

For Petitioner(s): Mr.M.A.Mudimannan

For Respondent(s): Mr.V.Prashanth Kiran,
Government Advocate (t)

**COMMON ORDER**

These writ petitions have been filed by the petitioner seeking to call for the records relating to the impugned order made in GSTN 33AAEPM0648J1ZT / 2017 - 2018 dated 12.10.2023 and in GSTIN 33AAEPM0648J1ZT / 2019-20 dated 05-10-2023, passed by the respondent and to quash the same.

2.Leaned counsel for the petitioner would submit that the petitioner is a Trader of iron and steel products and possess valid registration under the GST law. The petitioner was prompt in filing the GST returns. While so, due to financial strain, the petitioner was not able to continue the business and therefore, he filed an application on 16.04.2023 for cancellation of their GST registration certificate. The respondent after verifying the liability if any, exist and by order dated 16.05.2023, cancelled the GST registration of the petitioner. In view of the cancellation of GST registration certificate, the petitioner ceased to be a tax payer on the file of the respondent and the petitioner cannot have any link to see or to have any activity in the GST portal. However, the respondent had uploaded the notice of assessment in GST ASMT-10 on 31.08.2023, DRC-01 on 12.09.2023 and intimation fixing the personal hearing on 04.10.2023 and also the impugned order dated 12.10.2023 for the period 2017-18 and likewise GST ASMT-10 on 03.08.2023, DRC-01 on 07.09.2023 and intimation fixing the personal hearing on 19.09.2023 and also the impugned order dated 05.10.2023 for the period 2019-20.

3.He would further submit that after the date of cancellation of GST registration certificate, the respondent ought to have sent the proceedings by registered post or any other mode contemplated under Section 169 of the GST Act. Further, now the petitioner is ready and willing to pay each 10% of the disputed tax demand in respect of both the impugned assessment periods and prayed to set aside the impugned orders 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.

4.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 each 10% of the disputed tax demand by the petitioner, in respect of both the impugned assessment periods, if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.

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

6.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 notice were uploaded on the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notices issued through the GST Portal and the original of the said show cause notices were not furnished to them. In such circumstances, this Court is of the view that the impugned assessment orders came to be passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notices.

7.No doubt sending notice by uploading in portal is a sufficient service, but, the Officer who is sending the repeated reminders, inspite of the fact that no response from the petitioner to the show cause notices etc., the Officer should have applied his/her mind and explored the possibility of sending notices by way of other modes prescribed in Section 169 of the GST Act, which are also the valid mode of service under the Act, otherwise it will not be an effective service, rather, it would only fulfilling the empty formalities. Merely passing an *ex parte* order by fulfilling the empty formalities will not serve any useful purpose and the same will only pave way for multiplicity of litigations, not only wasting the time of the Officer concerned, but also the precious time of the Appellate Authority/Tribunal and this Court as well. Thus, when there is no response from the tax payer to the notice sent through a particular mode, the Officer who is issuing notices should strictly explore the possibilities of sending notices through some other mode as prescribed in Section 169(1) of the Act, preferably by way of RPAD, which would ultimately achieve the object of the GST Act.

8.Therefore, this Court finds that there is a lack of opportunities being provided to serve the notices/orders etc., effectively to the petitioner. Hence, this Court is inclined to set-aside the impugned orders with terms, by issuing the following directions:-

> (i) The orders impugned herein are set aside on condition that the petitioner deposits each 10% of the disputed tax amount in respect of the impugned assessment periods 2017-18 and 2019-20, as agreed by the petitioner, within a

period of four weeks from the date of receipt of a copy of this order.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice by fixing the date of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

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

**04-04-2025**

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
rst

To

State Tax Officer,
Broad Way Assessment Cricle,
3rd Floor, Wall Tax Road
Room No.305, Chennai 03.

**KRISHNAN RAMASAMY J.**

rst

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AND

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