IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.06.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No. 2380 of 2021
and
W.M.P.Nos.2686 & 2688 of 2021

M/s. Quincessential Designs India Pvt. Ltd.,
rep.by Mr.Syed Layak Ali,
...Petitioner

Vs.

1. The Superintendent (Audit)
   Circle -III Group -5, Chennai – 101.

2. The Superintendent of GST & Central Excise,
   Range III, Nungambakkam Division,
   26/1, Mahatma Gandhi Road, Chennai – 34 ...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records from the file of the first respondent in C.No.111/10/537/2019-C3G5 dated 22.12.2020 and to quash the same as being without jurisdiction.

For Petitioner : Mr.V.Srikanth

For Respondents : Mr.A.P.Srinivas
Senior Standing Counsel

Order

The challenge in this Writ Petition is to the show cause notice passed by the first respondent dated 22.12.2020 and to quash the same.

2. The learned counsel appearing for the petitioner would submit that the first respondent has issued a show cause notice to the petitioner, therefore, the reply has to be filed only before the first respondent and the first respondent has to adjudicate the matter and pass orders, but, contrary to the said procedure, the first respondent has issued a show cause notice requiring the petitioner to file reply before the second respondent, who would adjudicate the issue, and challenging the jurisdiction, the petitioner has filed the present Writ Petition.

2.1 The learned counsel further contended that the show cause notice issued by the first respondent is directly contrary to the provisions of the Act, as there is no provision in the Act conferring jurisdiction on one proper Officer to issue the show cause notice and directing the registered person (petitioner) to submit objections/reply to another officer, viz., the second respondent. Therefore, the learned counsels prays for quashment of the impugned show cause notice.

3. Mr.A.P.Srinivas, learned Senior Standing Counsel for the respondents drawn this Court's attention to a circular issued by the Central Board of Excise and Customs, GST Policy Wing, bearing No.31/05/2018-GST dated 09.02.2018 and submitted that in terms of the said circular, show cause notice has to be issued by the Central Tax Officers of Audit Commissionerates and Directorate General of Goods and Services Tax Intelligence (hereinafter, referred to as DGGSTI) and the same has to be adjudicated by the Competent Central Tax Officer of the Executive Commissionerate, in whose jurisdiction, the noticee is registered; that in the present case, the said Board's instruction has been scrupulously followed in the issuance of the said show cause notice in dispute; that the adjudication powers has not been vested with CBIC with the audit officers and audit officers have been vested with the powers of smooth conduct of audit and if any discrepancies has been noticed, then, the power to issue show cause notice vests with the audit officers, while the adjudication powers have been vested with the jurisdictional officers of the Executive Commissionerate, where, the taxpayer is registered. Therefore, it is submitted that there is no merit in the Writ Petition and prayed for dismissal of the Writ Petition.

4. Heard Mr.V.Srikanth, learned counsel for the petitioner and Mr.A.P.Srinivas, learned Senior Standing Counsel for the respondents and perused the materials placed on record.

5. The challenge in this Writ Petition is to the show cause notice issued by the first respondent, on the ground that the same lacks jurisdiction and in violation of the provisions contemplated under the Act, inasmuch as, by virtue of the said show cause notice, the first respondent has directed the petitioner to submit reply/objection before the second respondent. It is the contention of the respondents that as per the instructions issued by the Central Board of Excise and Customs GST Policy Wing, bearing No.31/05/2018-GST dated 09.02.2018, the Central Tax Officers of Audit Commissionerates and Directorate General of Goods and Services Tax Intelligence (hereinafter, referred to as DGGSTI) shall exercise the powers only to issue show cause notice and the show cause notice issued by them shall be adjudicated by the Competent Central Tax Officer of the Executive Commissionerate, in whose jurisdiction, the noticee is registered.

6. Admittedly, the petitioner has not challenged the Circular dated 09.02.2018 and the challenge herein is only to the show cause notice issued by the first respondent. Thus, in the absence of any challenge made by the petitioner to the said Circular, this Court is not inclined to interfere with the impugned show cause notice issued by the first respondent and if the petitioner is aggrieved by the impugned show cause notice, the petitioner can very well raise all objections in the form of reply before the second respondent. Hence, this Court is inclined to pass the following orders/directions:-

i) The petitioner is directed to file reply/objection before the second respondent within a period of four weeks from the date of receipt of a copy of this order

ii) The second respondent is directed to consider the reply filed by the petitioner and shall adjudicate the issue in accordance with law, after affording an opportunity of hearing to the petitioner.

7. With the above direction, the Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

11.06.2025

sd

Index : yes/no
Neutral Citation : yes/no

To

1. The Superintendent (Audit)
   Circle -III Group -5, Chennai – 101.

2. The Superintendent of GST & Central Excise,
   Range III, Nungambakkam Division,
   26/1, Mahatma Gandhi Road, Chennai – 34

Krishnan Ramasamy,J.,

sd

W.P.No. 2380 of 2021

11.06.2025