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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.3243 of 2025
and
W.M.P.Nos.3592 and 3593 of 2025

Tvl.SVN Leathers,
Rep. by its Proprietrix,
S.Bhanu Mathy ...Petitioner

Vs.

The State Tax Officer,
Vepery Assessment Circle,
No:1, (PAPJM) Annex Building,
1st Floor, Room No.A-110,
Greams Road, Chennai- 600 006. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records in GSTIN:33AUAPB0146J1ZA/2018-2019 dated 27.11.2024 on the file of the respondent and quash the same as illegal, error of law and error on the face of record and contrary to the provisions of the Goods and Service Tax Act 2017 and consequentially direct the respondent to pass orders as per law by providing an opportunity of personal hearing.

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For Petitioner : Ms.L.Sweety

For Respondents : Mrs.Amirthapoonkodi Dinakaran
Government Advocate (Taxes)

Order

Mrs.Amirthapoonkodi Dinakaran, learned Government Advocate (Taxes), takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order dated 27.11.2024 passed by the respondent for the AY 2018-19 and to quash the same.

3. The learned counsel for the petitioner would submit that the respondent has issued a show cause notice dated 23.10.2024 to the petitioner by uploading the same in the GST Portal without serving physical copy to the petitioner. Therefore, the petitioner was not aware of those notices and hence failed to submit its reply. Since the petitioner failed to file reply to the said show cause notice, the respondent has confirmed the

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proposals contained in the show cause notice and passed the present impugned order. Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order.

3.1. It is also submitted by the learned counsel for the petitioner that the supplier has not filed the returns and the petitioner has already remitted the tax to the Government and now the petitioner is ready and willing to deposit 10% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remand the matter back to the Authority for fresh consideration.

4. The learned Government Advocate (Taxes) for the first respondent fairly submitted that since the petitioner has voluntarily come forward to deposit 10% of the disputed tax, the prayer sought for by the petitioner may be considered.

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5. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that show cause notice was uploaded on 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. In such circumstances, this Court is of the view that the impugned assessment order came to be passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notice.

6. 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

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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.

7. 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 order with terms, by issuing the following directions:-

i) The impugned order passed by the respondent dated 27.11.2024 is set aside.

ii) Consequently, the matter is remanded to the respondent for fresh consideration.

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iii) The petitioner is granted liberty to deposit 10% of the disputed tax, which the petitioner themselves had voluntarily came forward to make such payment, within a period of two weeks from the date of receipt of a copy of this order.

iv) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

v) Thereupon, the respondent is directed to consider the reply and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

8. With the above observations & directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

24.04.2025

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Index : yes/no
Neutral Citation : yes/no

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To

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Krishnan Ramasamy,J.,

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