



W.P.No.4384 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 24.06.2025

CORAM

The HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Writ Petition No.4384 of 2025 and
WMP.Nos.4891 & 4893 of 2025

M/s. Viva Handloom
Rep. by its Proprietor
Sri. R.Srinivasan,
No. 57, Kallikottai Main Road,
Jari Kondalampatty,
Salem - 636 010.

...Petitioner

Vs.

1. The Assistant Commissioner (ST) (FAC),
Kondalampatty Assessment Circle,
3rd Floor, Commercial Taxes Office Building,
Pitchards Road, Hasthampatty,
Salem - 7.

2. The Deputy Commissioner (CT),
Salem.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records of the first respondent herein in GSTIN: 33CCKPS8627M1ZU/2018-2019 dated 08/04/2024 and the consequential rejection order passed by the second respondent in ARN #



W.P.No.4384 of 2025

AD3312240071170 dated 27/12/2024 and quash the same.

WEB COPY

For Petitioner : Mr.B.Raveendran

For Respondents : Ms. Amirta Pongodi Dinakaran,
Government Advocate (T).

ORDER

Ms.Amirthapoonkodi Dinakaran, learned Government Advocate (Taxes), takes notice on behalf of the respondents. 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 08.04.2024 passed by the 1st respondent for the AY 2018-19 and the consequential order of the 2nd respondent dated 27.12.2024 and to quash the same.

3. The learned counsel for the petitioner would submit that the first respondent has issued a show cause notice dated 09.06.2023 by uploading the same in the GST portal without serving physical copy of the same to the



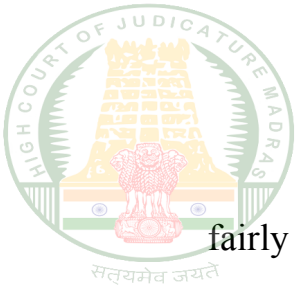
W.P.No.4384 of 2025

WEB COPY

petitioner. Therefore, the petitioner was not aware of the show cause notice and failed to submit the reply. Since the petitioner failed to file reply to the said show cause notice, the respondent has confirmed the proposals contained in the show cause notice and passed the present impugned order. Subsequently, the petitioner filed an appeal on 04.12.2024 before the 2nd respondent and the same was also rejected vide order dated 27.12.2024 on the ground of delay. Further, the learned counsel would submit that the impugned assesment 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 petitioner has already deposited 10% at the time of filing appeal and is ready and willing to deposit 15% 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 respondents

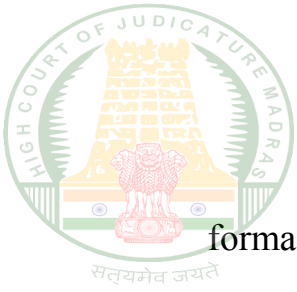


W.P.No.4384 of 2025

fairly submitted that since the petitioner has voluntarily come forward to deposit 15% of the disputed tax, the prayer sought for by the petitioner may be considered.

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 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.

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



WEB COPY

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.

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



W.P.No.4384 of 2025

WEB COPY

i) The impugned assessment order passed by the 1st respondent dated 08.04.2024 is set aside.

ii) Consequently, the matter is remanded to the 1st respondent for fresh consideration.

iii) The petitioner is granted liberty to deposit 15% of the disputed tax, which the petitioner themselves had voluntarily come 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 first 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.



W.P.No.4384 of 2025

8. With the above observations & directions, this Writ

Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

24.06.2025

Index : Yes / No
Neutral Citation : Yes / No
Speaking Order : Yes / No
arr

To

1. The Assistant Commissioner (ST) (FAC),
Kondalampatty Assessment Circle,
3rd Floor, Commercial Taxes Office Building,
Pitchards Road, Hasthampatty,
Salem - 7.

2. The Deputy Commissioner (CT),
Salem.



WEB COPY



W.P.No.4384 of 2025

KRISHNAN RAMASAMY, J.

arr

Writ Petition No.4384 of 2025 and
WMP.Nos.4891 & 4893 of 2025

24.06.2025