IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.02.2025
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The Honourable **Mr.Justice Krishnan Ramasamy**

**W.P.No.6190 of 2025**
**and**
**W.M.P.No.6803 of 2025**

M/s.Universal Consortium of Engineers
rep. by its Partner, Mr.K.Boopathi ...Petitioner

Vs.

1. The Assistant Commissioner (ST) (FAC)
   KK.Nagar Assessment Circle
   5th Floor, PAPJM Annex Building,
   Greams Road, Chennai – 600 006.

2. The State Tax Officer (FAC)
   KK.Nagar Assessment Circle,
   5th Floor, PAPJM Annex Building,
   Greams Road, Chennai – 600 006. ...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 of the impugned ex parte orders passed by the first respondent in Form DRC-07 Ref.No.ZD330724028607C dated 02.07.2024 along with its annexure and the second respondent in Form DRC-07 Ref.No.ZD330824224283K dated 24.08.2024 along with its annexure and to quash the same as arbitrary.

For Petitioner : M/s.S. Akila

For Respondents : Mr.T.N.C.Kaushik
Additional Government Pleader (T)

**Order**

Heard M/s.S. Akila, learned counsel appearing for the petitioner and Mr.T.N.C.Kaushik, learned Additional Government Pleader (T), who 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 impugned ex parte orders passed by the first respondent in Form DRC-07 dated 02.07.2024 along with its annexure and the second respondent in Form DRC-07 dated 24.08.2024 along with its annexure and to quash the same as arbitrary.

**3.** The learned counsel for the petitioner would submit that both the impugned orders dated 02.07.2024 and 24.08.2024 are ex parte orders, as, all the notices/communications, which culminated in passing such orders were not directly served on the petitioner through physical mode of service but were merely uploaded in the 'View Additional Notices/Orders" column in the GST Portal, which were unnoticed by the petitioner, and the petitioner came to know of the impugned orders only when the respondent sent notice regarding recovery proceedings, which was received by the petitioner through post.

**3.1** The learned counsel further submitted that as far as the issue involved in the impugned order dated 02.07.2024 is concerned, which is one among three issues in the impugned order dated 24.08.2024, the order dated 02.07.2024 has to be given a go-by, since, both orders are overlapping each other and the issues, numbering 3, which are subject matter in the impugned order dated 24.08.2024, the learned counsel for the petitioner prays for setting aside the same and remanding the matter for re-consideration and the petitioner is ready and willing to deposit 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned order, and thus, prays for appropriate orders.

**4.** The learned Additional Government Pleader (T) for the respondents fairly agreed that the impugned order dated 02.07.2024 may be quashed, but, as far as the other impugned order dated 24.08.2024 is concerned, he submitted that the show cause notice was followed three reminders, despite the same, the petitioner has not come forward to file reply nor appeared before the respondents, hence, the impugned order has been passed and therefore, there is no violations of principles of natural justice.

**5.** I have given due considerations to the submissions made on either side and perused the materials available on record.

**6.** On a perusal of the impugned orders dated 02.07.2024 and 24.08.2024 it could be seen that the issue involved in the order dated 02.07.2024 passed by the first respondent is one among three issues covered in the impugned order dated 24.08.2024 passed by the second respondent. Therefore, as rightly contended by the petitioner the impugned orders are overlapping each other and one order should be given a go-by, which fact was fairly acceded to by the respondents. Therefore, this Court is inclined to quash the impugned order dated 02.07.2024 passed by the first respondent.

**6.1** As far as the impugned order dated 24.08.2024, it is the contention of the petitioner that the same is an ex parte order, as, all the notices/communications, which culminated in passing such orders were not directly served on the petitioner through physical mode of service but were merely uploaded in the 'View Additional Notices/Orders" column in the GST Portal, which were unfortunately, unnoticed by the petitioner, and the petitioner came to know of the impugned order only when the respondent sent notice regarding recovery proceedings, which was received by the petitioner through post. Therefore, this Court is of the view that impugned order dated 24.08.2024 is nothing but an ex parte order and is liable to be set aside.

**6.2** Though it is the contention of the learned Additional Government Pleader that opportunities were granted to the petitioner thrice by way of sending three reminders to the show cause notice, as held by this Court time and again in umpteen number of judgments that unless and until the assessees are put to knowledge of the impugned orders by way of physical mode of service, preferably, by RPAD, all such notices/communications, which were served on the assesees through on-line portal services can no longer deemed to be a sufficient service, and any order passed based on effecting such on-line service mode, cannot be construed to be an effective service.

**6.3** Thus, once the order is passed in violation of principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit, however, since the petitioner, themselves, have voluntarily come forward to deposit 25% of the disputed tax, to which, the learned Additional Government Pleader (T) is also agreable, this Court is inclined to pass the following orders/directions:

i) The impugned order dated 02.07.2024 passed by the first respondent stands quashed.

ii) The impugned order dated 24.08.2024 passed by the second respondent is set aside.

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

iv) The petitioner is granted liberty to deposit 25% of the disputed tax, which the petitioner themselves have voluntarily came forward to make such payment within a period of two weeks from the date of receipt of a copy of this order.

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

vi) 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.

**7.** In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petition is closed.

**24.02.2025**

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To

1. The Assistant Commissioner (ST) (FAC)
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   Greams Road, Chennai – 600 006.

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**Krishnan Ramasamy,J.,**

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