IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.07.2025

Coram:

The Honourable Mr.Justice KRISHNAN RAMASAMY

W.P.No.6669 of 2025
and W.M.P.No.7311 of 2025

Tvl.Vivek Traders LLP,
Rep. by its Partner Mr.Jithender Tatia,
No.3, 320, Valluvar Kottam High Road,
Nungambakkam, Chennai – 600 034.

...Petitioner

Versus

The State Tax Officer,
Group IX, Intelligence – I,
Commercial Taxes Building, PAPJM Building,
Room No.133, 1st Floor, No.1,
Greams Road, Chennai – 600 006.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari to call for the records of the respondent in Order dated 31.12.2023 in GSTN 33AAOFV4394C1ZZ/2017-18 and quash the same as illegal, arbitrary and in violation of principle of natural justice.

For Petitioner	:	Mr.C.Rekhakumari,
For Respondent	:	Ms.Amirta Poonkodi Dinakaran, Government Advocate (Tax)

ORDER

Ms.Amirta Poonkodi Dinakaran, learned Government Advocate (Tax) takes notice for the respondent.

2. With the consent of both sides, this writ petition is taken up for final disposal at the admission stage itself.

3. The relief sought in this writ petition is to quash the Order dated 31.12.2023 bearing GSTN 33AAOFV4394C1ZZ/2017-18 passed by the respondent.

4. The brief facts of the case are that the petitioner has been duly filing its returns and paying all the statutory taxes. On verification of the returns filed by the petitioner for the year 2017-18, it was found by the Officials that the petitioner has availed excess Input Tax Credit on comparison of GSTR-3B and GSTR-2A. Hence, the respondent issued a

Notice in Form GST DRC-01A dated 27.09.2023, advising the petitioner to pay the ascertained tax amount of Rs.1,54,88,042/- along with applicable interest and penalty by 04.10.2023. Then, the respondent vide Show Cause Notice in Form GST DRC-01 dated 06.11.2023, proposed a liability totalling at Rs.1,54,88,042/- and called upon the petitioner to file its Reply by 21.11.2023 and to appear for personal hearing on 17.11.2023. In response to the said Show Cause Notice, the petitioner filed its Reply vide Form GST DRC-06 dated 30.12.2023. Thereafter, the respondent passed an Assessment Order in Form GST DRC-07 dated 31.12.2023, imposing a demand of Rs.1,34,24,302/- comprising tax, interest and penalty on the petitioner. Aggrieved over the same, the petitioner has filed the present writ petition for the aforesaid relief.

5. The learned counsel for the petitioner submitted that the Notice in DRC-01A, Show Cause Notice in DRC-01 and impugned Assessment Order issued by the respondent were merely uploaded in "View Additional Notices and Orders" column in GST Portal and the same were not served to the petitioner through physical mode and thus, the petitioner was not aware of the Show Cause Notice as well as the impugned Assessment Order.

5.1. It is further submitted by the learned counsel for the petitioner that since the petitioner was not aware of the Show Cause Notice issued by the respondent, the petitioner was unable to reply to the same and was also unable to appear for personal hearing. Similarly, the petitioner came to know about the impugned Assessment Order only when the respondent intimated the petitioner to pay the tax.

5.2. The learned counsel for the petitioner submitted that prior to the passing of impugned Assessment Order dated 31.12.2023, the petitioner was not provided with an opportunity of personal hearing. Therefore, it is submitted that the impugned order has been passed in violation of the principles of natural justice and hence, the same is liable to be quashed.

6. The learned Government Advocate (Tax) appearing for the respondent prayed that the impugned order may be quashed and the matter may be remanded back to the respondent for reconsideration.

7. Heard the learned counsel for the petitioner and the learned Government Advocate (Tax) for the respondent.

8. From a perusal of the materials available on record, it is seen that the Show Cause Notice and impugned Assessment Order were only uploaded in the GST Portal and the same were not served to the petitioner through any other physical mode. Since the petitioner was not aware of the show cause notice uploaded in the GST Portal, the petitioner could not reply to the show cause notice and also, could not appear for personal hearing. The petitioner came to know about the impugned Assessment Order only when the respondent intimated the petitioner to pay tax.

9. It is also seen that the impugned Assessment Order suffers from violation of the principles of natural justice since prior to the passing of same, the petitioner was not provided with an opportunity of hearing.

10. No doubt, sending notice by uploading in GST Portal is a sufficient service, but, the Officer who finds no response from the petitioner to the show cause notices should have applied his/her mind and explored the possibility of sending notices by way of other modes prescribed in Section 169 of the Central Goods and Service Tax Act, 2017 (for brevity,

"CGST Act") which are also the valid mode of service under the said Act, otherwise, the service of notice will not be deemed to be an effective service, rather, it would only fulfilling the empty formalities.

11. Merely passing an *ex-parte* order by fulfilling the empty formalities will not serve any useful purpose and the same would 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 CGST Act, preferably by way of RPAD which would ultimately achieve the object of the CGST Act.

12. Once the impugned order is passed in violation of the principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit. Hence, this Court issues the following directions:

(i) The impugned Order dated 31.12.2023 passed by the respondent is quashed.

(ii) Consequently, the case is remanded back to the respondent for reconsideration.

(iii) The petitioner is directed to file its Reply/Objection along with the required documents, if any, within a period of two weeks from the date of receipt of a copy of this order.

(iv) On filing of such Reply/Objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice affording an opportunity of personal hearing to the petitioner. Thereafter, the respondent shall decide the case, in accordance with law, as expeditiously as possible.

13. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

11.07.2025

mrr
Index: Yes/No
Speaking Order (or) Non-Speaking Order

To

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KRISHNAN RAMASAMY, J.

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