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W.P.No.6521 of 2025
and W.M.P.Nos.7182 & 7183 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.02.2025

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THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.6521 of 2025
and W.M.P.Nos.7182 & 7183 of 2025

M/s.Apex Medi Mart,
Represented by its Proprietor
Kumutha,
Nos.657, 659, Gugai Trichy Main Road,
Salem – 636 006.

.. Petitioner

Vs.

Assistant Commissioner (State Taxes),
Annathanapatty Assessment Circle,
4th Floor, Commercial Taxes Office Building,
Pitchards Road, Hasthampatty,
Salem-7.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue Writ of Certiorari, calling for the records on the files of the respondent herein in FORM GST DRC-07 with Reference No.ZD3307243252799 dated 27.07.2024 along with detailed order in GSTIN-33ERKPK2164J1ZN/2022-23 dated 26.07.2024 for the assessment period 2022-23 and quash the same.



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W.P.No.6521 of 2025
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For Petitioner : Mr.N.Chandirasekar
For Respondent : Mr.C.Harsha Raj,
Special Government Pleader

ORDER

This Writ Petition has been filed by the petitioner seeking to call for the records on the files of the respondent herein in FORM GST DRC-07 with Reference No.ZD3307243252799 dated 27.07.2024 along with detailed order in GSTIN-33ERKPK2164J1ZN/2022-23 dated 26.07.2024 for the assessment period 2022-23 and quash the same.

2.Mr.C.Harsha Raj, learned Special Government Pleader (Taxes), takes notice on behalf of the respondent.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.Learned counsel appearing for the petitioner would submit that, in the present case, the petitioner have not received any show cause notice



W.P.No.6521 of 2025
and W.M.P.Nos.7182 & 7183 of 2025

WEB COPY

and also personal hearing notice. The show cause notice dated 20.11.2023 was uploaded in the GST Portal tab in view additional notices column and the petitioner had no occasion to open the GST Portal. Even the impugned order in FORM GST DRC-07 dated 27.07.2024 along with detailed order dated 26.07.2024 was also uploaded in the view additional notices column, which is violation of principle of natural justice. He would further submit that the petitioner is ready and willing to pay 25% of the disputed tax demand in respect of the impugned assessment period and prayed to set aside the impugned order directing the respondent to permit the petitioner to file their reply and provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

5.Learned Special Government Pleader appearing for the respondent would submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of 25% of the disputed tax demand by the petitioner in respect of the impugned assessment period, if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.



W.P.No.6521 of 2025
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WEB COPY

6.Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader and perused the materials available on record.

7.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 notices were issued through 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. It appears that two reminders were also sent to the petitioner through the GST portal. When such being the case, this Court feels that when the respondent did not receive any reply/response from the petitioner for the show causes notice and the reminders and when the statute provide alternative mode for sending notices, it is a bounden duty of the respondent to choose an other effective mode of service instead of uploading the notices and the reminders on the common portal again and again. When such exercise is being carried out,



W.P.No.6521 of 2025
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the petitioner would have not come with the plea before his Court that they have not received any notices.

8.Thus, in such circumstances, this Court is of the view that the impugned order came to be passed without affording opportunity of personal hearing to the petitioner to establish their case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.

9.For the reasons stated above, this Court is inclined to set aside the impugned orders in FORM GST DRC-07 with Reference No.ZD3307243252799 dated 27.07.2024 along with detailed order in GSTIN-33ERKPK2164J1ZN/2022-23 dated 26.07.2024. Accordingly, this Court passes the following order:-

- (i) The order impugned herein is set aside on condition that the petitioner deposits 25% of the disputed tax amount in respect of the impugned assessment period, as



WEB COPY



W.P.No.6521 of 2025
and W.M.P.Nos.7182 & 7183 of 2025

agreed by the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice by fixing the date of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

10. With the above directions, the writ petition is disposed of.

There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

25.02.2025

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Index : Yes/No

Internet: Yes/No

Speaking/Non-Speaking Order



W.P.No.6521 of 2025
and W.M.P.Nos.7182 & 7183 of 2025

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To:
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W.P.No.6521 of 2025
and W.M.P.Nos.7182 & 7183 of 2025

KRISHNAN RAMASAMY, J.

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W.P.No.6521 of 2025
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25.02.2025