IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 20-03-2025**

CORAM

**THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY**

**WP No. 9587 of 2025**
**AND**
**WMP NO. 10747 OF 2025**

Panneerselvam Kothandan
Proprietor
Ms. Saravanabhava Fabricators ,
GSTIN / ID 33BSCPK1260K1ZZ
No.51A, PillaiyarKoil Street,
Ayapakkam, Chennai, Tiruvallur,
Tamil Nadu 600 077

Petitioner(s)

Vs

1. The Deputy Commissioner (ST)
GST Apeal, Chennai -I
CTAnnexure building 3rd floor
No 1, Greams road, chennai 600 006

2.Assistant Commissioner (ST),
Koyambedu Assessment Circle
No.1, 5th Floor,
PAPJM Annnex Building,
Greams Road, Chennai -600 006.

Respondent(s)

**PRAYER:-** Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent order dated 22.11.2023 bearing Reference No ZD 331123137810W (tax period July 2017) in GSTIN. No 33BSCPK1260K1ZZ and consequently direct the 2nd respondent to provide an opportunity to the petitioner to respond to the show cause Notice dated 08.09.2023 in form GST DRC 01 and Annexure bearing Reference ZD 330923044896Z issued by the 2nd Respondent.

For Petitioner(s): Mr.Sam Jayaraj Houstion
For M/s.Sarvabhauman
Associates

For Respondent(s): Mr.V.Prashanth Kiran,
Government Advocate (t)

**ORDER**

This Writ Petition has been filed by the petitioner seeking to call for the records of the 2nd respondent order dated 22.11.2023 bearing Reference No ZD 331123137810W (tax period July 2017) in GSTIN. No 33BSCPK1260K1ZZ and consequently direct the 2nd respondent to provide an opportunity to the petitioner to respond to the show cause Notice dated 08.09.2023 in form GST DRC 01 and Annexure bearing Reference ZD 330923044896Z issued by the 2nd Respondent.

2.MrV.Prashanth Kiran, learned Government Advocate (Taxes), takes notice on behalf of the respondents.

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 physical copy of the show cause notice and also personal hearing notice. The show cause notice dated 08.09.2023 was uploaded in the GST Portal tab in view additional notices column and the petitioner had no ocassion to open the GST Portal. Even the impugned order dated 22.11.2023 was also uploaded in the view additional notices column, which is violation of principle of natural justice. He would further submit that the petitioner after knowing about the impugned assessment order being passed by the 2nd respondent, had preferred an appeal before the 1st respondent by paying 10% statutory deposit of the disputed tax demand. However, the appeal got rejected on the ground of limitation. Hence, the petitioner is ready and willing to pay another 15% of the disputed tax demand in respect of the impugned assessment period and prayed to set aside the impugned orders directing the 2nd 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 Government Advocate appearing for the respondents would submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of 15% of the disputed tax demand in addition to the 10% depsoite already being made 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.

6.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate 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. 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 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 on the common portal again and again. When such exercise is being carried out, 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 dated 22.11.2023 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 assessment order dated 22.11.2023 passed by the 2nd respondent. Accordingly, this Court passes the following order:-

(i) The order impugned herein is set aside on condition that the petitioner deposits 15% of the disputed tax amount in respect of the impugned assessment period in addition to the 10% statutory deposit already made, as 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 2nd 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 petition is closed.

**20-03-2025**

rst

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
TO
1.The Deputy Commissioner (ST)
GST Apeal, Chennai -I CTAnnexure
building 3rd floor No 1, Greams road,
chennai 600 006

2.Assistant Commissioner (ST),
Koyambedu Assessment Circle
No.1, 5th Floor,
PAPJM Annex Building,
Greams Road, Chennai 600 006.

**KRISHNAN RAMASAMY J.**

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