IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-03-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 9340 of 2025
AND
WMP NO. 10502 OF 2025,WMP NO. 10501 OF 2025,WMP NO. 10500 OF 2025,WMP NO. 10499 OF 2025

S M Traders
No.153 / 2b-1, Opp. Tata Service Center
Avinashi Road Kollupalayam,
Arasur, Coimbatore 641659
Represented By Its Partner,
Mr.Chinnasamy Krishnasamy.

Petitioner(s)

Vs

1. The Commercial Tax Officer
Karumathampatti Circle, 2nd Floor,
Commercial Tax Building,
Coimbatore 641018,
Tamilnadu.

2.The Branch Manager
Canara Bank, 209,
210 Jeeva Street,
Near Bus Stand Chinniyampalayam
Coimbatore 641602.

Respondent(s)

PRAYER:-Writ Petition filed under Section 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the records and quash the same as illegal arbitrary and devoid of merit of the 1st respondent impugned order dated 26.12.2023 with reference number ZD3312231969818 passed under section 73 of the Tamil Nadu Goods and Service Tax Act (Act) along with the Summary order dated 26.12.2023 for the financial year 2017-2018 with reference number ZD3312231969818(impugned order) passed by the first respondent and pass.

For Petitioner(s): Mr.Sudhakar G

For Respondent(s): Mr.T.N.C.Kaushik,
Additional Government Pleader (t)

ORDER

This Writ Petition has been filed by the petitioner seeking to call for the records and quash the same as illegal arbitrary and devoid of merit of the 1st respondent impugned order dated 26.12.2023 with reference number ZD3312231969818 passed under section 73 of the Tamil Nadu Goods and Service Tax Act (Act) along with the Summary order dated 26.12.2023 for the financial year 2017-2018 with reference number ZD3312231969818(impugned order) passed by the first respondent and pass.

2.Mr.T.N.C.Kaushik, learned Additional Government Pleader (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 was uploaded in the GST Portal tab. Even the impugned order dated 26.12.2023 was also uploaded in GST portal, which is violation of principle of natural justice. All the communication received from the 1st respondent including the impugned order did not contain any document identification number. Due to the confusion, the petitioner's authorized representative failed to reply for the show cause notice and he also failed to inform the same to the petitioner. 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 Additional Government Pleader 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 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.

6.Heard the learned counsel appearing for the petitioner as well as the learned Additional 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. Even the show cause notice and the impugned order issued by the respondents do not contain any document identification number and therefore, due to confusion, the petitioner's authorized representative failed to file reply to the show cause notice. 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 since the there were some defects in the show cause notice, it led confusion to the petitioner's represenataive to file reply and 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 order dated 26.12.2023 passed by the respondent. 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 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.

20-03-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

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To

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641018, Tamilnadu.

2.The Branch Manager
Canara Bank 209 210 Jeeva Street
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KRISHNAN RAMASAMY J.

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