IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-03-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 10300 of 2025
AND
WMP NO. 11604 OF 2025,WMP NO. 11605 OF 2025

Kinetic Forge Private Limited
Represented by its Managing Director
Mr R. Krishnamurthi,
No.85 B SIDCO Industrial Estate
SIDCO Coimbatore
Tamil Nadu-641 021

Petitioner(s)

Vs

The Assistant Commissioner(ST)
Kuniyamuthur Assessment Circle,
Coimbatore.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, Pleased to issue a Writ of Certiorari, calling for the records leading to the issuance of assessment order bearing reference No. GSTIN.33AABCK3184B1Z1/2017-2018 dated 30.12.2023 passed by the Respondent herein and quash the same.

For Petitioner(s): Ms.Sri Harini S P

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 leading to the issuance of assessment order bearing reference No. GSTIN.33AABCK3184B1Z1/2017-2018 dated 30.12.2023 passed by the Respondent herein and quash the same.

2.Mr.T.N.C.Kaushik, learned Additional 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 physical copy of the show cause notice and also personal hearing notice. The show cause notice dated

27.09.2023 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 30.12.2023 was also uploaded in the view additional notices column, which is violation of principle of natural justice. He would further submit that after knowing about the impugned assessment order dated 30.12.2023, the petitioner had remitted a sum of Rs.1,05,112/- vide DRC-03 dated 03.02.2025 and he is ready and willing to pay 25% from the reminaing 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 respondent would submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of 25% from the disputed tax demand by the petitioner after deducting a sum of Rs.1,05,112/- which was already paid, 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 appearing for the respondent 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 reminder was 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 reminder 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 reminder on the common portal again and again. When such exercise is being carried out, the petitioner would have not come with the plea before this 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 order dated 30.12.2023 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% from the remaining disputed tax amount after deducting a sum of Rs.1,05,112/-, which was already paid by the petitioner, 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.

25-03-2025

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

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To:

The Assistant Commissioner(ST)
Kuniyamuthur Assessment Circle,
Coimbatore.

KRISHNAN RAMASAMY J.

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