IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 26.03.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.10548 of 2025
and
W.M.P.Nos.11871 & 11872 of 2025

M/s. Thearth Designs and décor Solutions LLP
rep. By its Partner, Mr.Rajeev Kolli.
...Petitioner

Vs.

1. The State Tax Officer (ST) (FAC)
Sholinganallur Assessment Circle
No.240, 2nd Floor, Integrated Building For Registration
and Commercial Taxes Department
Nandanam, Chennai – 600 035.

2. The Assistant Commissioner (ST)
Sholinganallur Assessment Circle
2nd Floor, Integrated Building For Registration
and Commercial Taxes Department
Nandanam, Chennai – 600 035.

3. The Branch Manager,
ICICI Bank Ltd., HSG – J- KIADB,
1st Phase, 100 ft Road, APC Circle, Jigani Anekal Taluk,
Bangalore, Karnataka 560 105. ...Respondents

Prayer :-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records leading to the issuance of assessment order bearing Ref. No.GSTIN : 33AALFT6606L1ZU/2019-20 dated 14.08.2024 passed by the first respondent herein and to quash the same and further, to direct the second respondent to revoke the lien or attachment made to the current account No.318305000027 of the petitioner and savings account of partners bearing Account Nos.743201000071, 107501510976, 000901063409 and 318301000098 lying with the third respondent.

For Petitioner	:	Sri.Harini S.P.
For Respondents1 & 2	:	Mrs.K.Vasanthamala Government Advocate (T)
For Respondent-3	:	Mr.V.Adhivaragan

Order

Heard Ms.S.P.Harini learned counsel appearing for the petitioner, Mrs.K.Vasanthamala, learned Government Advocate (T) who takes notice on behalf of the respondents 1 and 2 and Mr.V.Adhivaragan, the learned counsel, who takes notice on behalf of the third respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order passed by the first respondent dated 14.08.2024 and to quash the same and further, to direct the second respondent to revoke the lien or attachment made to the current account of the petitioner and savings account of partners lying with the third respondent-Bank.

3. At the outset, learned counsel for the petitioner would submit that the issue involved in this Writ Petition is covered by a decision rendered by this Court in W.P.No.5539 of 2025, in the case of **Tvl. Sri Balaji Traders Vs. Deputy Commercial Tax Officer, Chidambaram -I Cuddalore, TN, dated 24.02.2025,** wherein, in similar facts and circumstances of the case, this Court was pleased to set aside the impugned order and remanded the matter back to the respondent for re-consideration. The learned counsel also produced a photostat copy of the said order before this Court for reference and therefore, prays that similar direction may be passed in the present Writ Petition as well.

4. The learned Government Advocate (T) for the respondents 1 and 2 fairly submitted that the issue involved in this Writ Petition is covered by a decision rendered by this Court in W.P.No.5539 of 2025 dated 24.02.2025.

5. In the case on hand, it is seen that the show cause notice, reminders have not been served on the petitioner through physical mode of service, but has been made available only through on-line GST portal. The petitioner, who was unaware of any of such notices, failed to participate in the proceedings, which resulted in the impugned order, which even, the petitioner was not aware and only when the petitioner's bank account was freezed, the petitioner came to know of the impugned proceeding. That apart, the petitioner-Firm was closed in the year 2023 itself and the petitioner surrendered their GST registration and since the registration was canceled and no business was carried out, neither the petitioner nor the petitioner's Auditor had noticed the show cause notice, subsequent reminders and therefore, the petitioner could neither file reply and nor appear for the personal hearing, however, the first respondent proceeded to confirm the proposals contained in the show cause notice and passed the impugned order.

5.1 Thus, it is the grievance of the petitioner that had any of such notice has been served on the petitioner through physical mode of service, obviously, the petitioner would have responded to such notice by way of filing reply, whereby, the respondent would have perhaps dropped the proceeding. Further, it is submitted that the new mode of service adopted by the respondent, viz service of notice via On-line portal is not an effective mode of service, and in support of such contention, the learned counsel draws the attention of the Court to the provisions contained in Section 169 of the Central Goods and Service Tax Act, which prescribes any other modes of service, particularly (b) of the said Act, prescribes mode of service by RPAD.

5.2 Therefore, it is contended that unless and until the petitioner has received notice in person by RPAD, the service effected by the respondent cannot be deemed to be a sufficient service. In support of his contention, the learned counsel referred to a decision rendered by this Court in W.P.No.5539 of 2025, dated 24.02.2025, wherein, this Court, in similar facts and circumstances of the case, particularly, with regard to the mode of service, has held in sub para vi of para No.9.10 of the order as follows:-

> vi) So far as the aspect on adoption of mode of service by the respondent-Department is concerned, this Court would like to point out that once the respondent-Department realizes the fact that notice effected via, On-line portal service does not fetch them any reply/response, then, the respondent, instead of sticking on to the similar of mode of service by sending repeated notices/reminders, incessantly, via. On-line Portal, they could change mode of service and this Court suggests that the traditional way of serving notice through RPAD would be the best mode of service, inasmuch as, the recent technological development, which enables the respondent-Department to send notice via. on-line services, have been invented only for the purpose of making the assessee to make them alert as to what is happening in their assessment proceedings immediately, however, when such purpose is not achieved, the better option that is available to the respondent is to adopt the traditional way of serving notice via. RPAD, as the

upcoming technologies cannot usurp away the old traditional way of sending notice through RPAD, in which case, the assessee cannot take advantage of the notice being unnoticed or plead ignorance."

6. Thus, this Court following the earlier decision taken in W.P.No.5539 of 2025, is inclined to allow the present Writ Petition as well.

6.1 Accordingly, this Court pass/issue the following order/directions-

i) The impugned order dated 14.08.2024 passed by the first respondent is set aside.

ii) Consequently, the matter is remanded to the first respondent for fresh consideration.

iii) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of three weeks from the date of receipt of a copy of this order.

iv) Thereupon, the first respondent is directed to consider the reply and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall hear the petitioner in full and decide the matter in accordance with law.

v) Insofar as the Bank Attachment Notice is concerned, it is needless to state that once the impugned order is set aside, the Bank Attachment Order can no longer survive and the same has to be jettisoned by the respondent. Thus, the second respondent is directed to issue appropriate communication in that regard on the petitioner's Banker to de-freeze the bank account of the petitioner and the saving accounts of the petitioner's partners forthwith.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

26.03.2025

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Index : yes/no
Neutral Citation : yes/no

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Krishnan Ramasamy,J.,

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