IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.03.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.10390, 13094 and 10397 of 2025
and
W.M.P.Nos.11681 & 11682 of 2025
W.M.P.Nos.11686 & 11688 of 2025
W.M.P.Nos.11691, 11694 & 11697 of 2025

Shri. Krishnan Sampoornam
Proprietor of M/s. D.Sampoornam. ...Petitioner in all W.Ps.

Vs.

1. The Union of India
   rep. by the Secretary,
   Department of Revenue, Ministry of Finance,
   No.137, North Block, New Delhi – 110 001.

2. The Goods & Service Tax Council
   Rep. by its Secretary,
   GST Council Secretariat
   5th Floor Tower II Jeevan Bharti Building,
   Janpath Road, Connaught Palace,
   New Delhi – 110 001.

3. The Central Board of Indirect Taxes & Customs
   Rep. by its Chairman,
   North Block, New Delhi – 110 001.

4. The State of Tamil Nadu
rep. by its Secretary to Government
Commercial Taxes and Registration Department,
Secretariat, Fort St.George, Chennai – 600 009.

5. The Deputy State Tax Officer -II
Villivakkam Assessment Circle,
Nos.15 & 16, 100 Feet Road,
Malligai Avenue, Kolathur, Chennai – 600 099.

6. The Branch Manager,
HDFC Bank,
CGI, 2, 3 Varalakshmi, Villa 217/219 Konnur,
High Road, Ayanavaram, Chennai – 600 023.

...Respondents 1 to 6 in all W.Ps.

Prayer in W.P.Nos.10390 of 2025.

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records pertaining to the impugned notification No.09/2023-Central Tax dated 31.03.2023 issued by the third respondent and to quash the same as it is manifestly arbitrary, void and contrary to the provisions of Section 168A of the Central Goods and Service Tax Act, 2017.

Prayer in W.P.Nos.10394 of 2025.

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records pertaining to the impugned notification in G.O.Ms.No.41 of 2023, dated 05.04.2023, issued by the fourth respondent and to quash the same as it is manifestly arbitrary, void and contrary to the provisions of Section 168A of the Central Goods and Service Tax Act, 2017.

Prayer in W.P.Nos.10397 of 2025.

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records pertaining to the impugned order dated 18.12.2023 in GSTIN : 33AZHIPS2788P1ZG/2017-18 passed by the fifth respondent and to quash the same.

Appearance of the counsels in all three W.Ps

For Petitioner	:	T.V.Muthu Abirami
For Respondents 1, 2 & 3	:	Mr.Rajnish Pathiyil Senior Standing Counsel
For Respondents 4 & 5	:	Mr.K.Vasanthamala Government Advocate (T)
For Respondent-6	:	Mr.C.Mohan and M/s.A.Rexy Josephine Mary for M/s. King and Partridge

COMMON ORDER

With consent, the main Writ Petitions are taken up for final disposal at the stage of admission itself.

2. The challenge in Writ Petition No.10390 of 2025 is to the notification No.09/2023-Central Tax dated 31.03.2023 issued by the third respondent and to quash the same as it is manifestly arbitrary, void and contrary to the provisions of Section 168A of the Central Goods and Service Tax Act, 2017.

2.1 The challenge in Writ Petition No.10394 of 2025 is to the notification in G.O.Ms.No.41 of 2023, dated 05.04.2023, issued by the fourth respondent and to quash the same as it is manifestly arbitrary, void and contrary to the provisions of Section 168A of the Central Goods and Service Tax Act, 2017.

2.2 The challenge in Writ Petition No.10397 of 2025 is to order dated 18.12.2023 passed by the fifth respondent and to quash the same.

3. The learned counsel for the petitioner would submit that all the show cause notice/personal hearing notice, which culminated in the impugned order dated 18.12.2023 were merely uploaded in the GST Portal under the "View Additional Notices Tab", hence, the same were unnoticed by the petitioner, therefore, the petitioner could not file reply nor appear for the personal hearing, however, without hearing the petitioner, the impugned order came to be passed. Further, the learned counsel also denied that the notice was sent to the petitioner via. RPAD but the same was returned with an endorsement, "No such person".

3.1 Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order and only when the recovery proceedings were initiated against the petitioner, the petitioner became aware of the impugned order and immediately thereafter, upon wrong advise of the Accountant, the petitioner also made 10% of the disputed tax, believing that, bank attachment would be lifted, however, the attachment order still prevails. Hence, the learned counsel submits that the petitioner is ready and willing to deposit 15% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remands the matter back to the Authority for fresh consideration, and thus, prays for appropriate orders.

3.2 The learned counsel also stated that so far as the issue pertaining to Section 168 A of CGST Act, 2017 concerning W.PNos.10390 and 10394 of 2025 is concerned, she is not pressing upon the said issue.

4. The learned Government Advocate (T) for the respondent fairly submitted that since the petitioner has already deposited 10% of the disputed tax and has now voluntarily came forward to deposit 15% of the disputed tax, this Court may pass appropriate orders, as it deems fit and proper.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. Admittedly, there is no dispute on the aspect that the impugned Order dated 18.12.2023 passed by the fifth respondent is an ex parte order, as the petitioner has not been heard before passing the same, since, all the notices/communications, which culminated in the impugned assessment order have been merely uploaded in the GST Portal through on-line service and have not been served on the petitioner through physical mode, the same were unnoticed by the petitioner, and that, though in the impugned order, it is stated that the the petitioner was served notice via. RPAD, the same was denied by the petitioner.

6.1 Thus, the respondent passed the impugned order without even affording any opportunity of hearing to the petitioner, and therefore, impugned order suffers from violation of principles of natural justice. Thus, once the order is passed in violation of principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit, however, considering the fact that the petitioner, upon wrong advice made by their Accountant, had already deposited 10% of the disputed tax, and is now willing to deposit 15% of the disputed tax, to which, the learned Government Advocate for the respondent Nos.4 and 5 (T) is also agreable, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order dated 18.12.2023 passed by the fifth respondent is set aside.

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

iii) The petitioner is granted liberty to deposit 15% of the disputed tax, which the petitioner themselves have voluntarily came forward to make such payment within a period of two weeks from the date of receipt of a copy of this order.

iv) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

v) Thereupon, the fifth 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 decide the matter in accordance with law.\

vi) So far as the bank attachment order is concerned, upon production of proof with regard to the payment of 15% of the disputed tax made by the petitioner, the respondent-Department is directed to issue appropriate direction on the petitioner's banker towards de-freezure of the petitioner's bank account forthwith and permit the petitioner to operate the bank account.

vii) As regards the issue pertaining to Section 168 A of CGST Act, 2017 in W.PNos.10390 and 10394 of 2025, since it is stated by the leraned counsel for the petitioner that she is not pressing upon the said issue, recording such submission, W.P.Nos.10390 and 10394 of 2025 is dismissed as not pressed.

7. In the result, the Writ Petition Nos.10390 and 10394 of 2025 are dismissed as not pressed and W.P.No.10397 of 2025 is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

24.03.2025

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Index : yes/no
Neutral Citation : yes/no

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   Department of Revenue, Ministry of Finance,
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Krishnan Ramasamy,J.,

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