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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-03-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 9966 of 2025

AND

WMP NO. 11156 OF 2025, WMP NO. 11159 OF 2025

Tvl Shomli Interiors
Rep by its Partner-Balasubramaniam
Mani, First Floor, No.7A, Palani Nagar,
Industrial Estate, Moulivakkam,
Chennai, Tamil Nadu-600125

Petitioner(s)

Vs

The Assistant Commissioner ST FAC
Ayyapanthagal Assessment Circle,
Poonamalle Zone, Kancheepuram
Division, No. 4/109 Chennai -
Bangalore Highways, Nazarathpet,
Chennai 123.

Respondent(s)

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, calling for the records relating to the impugned proceedings passed by the Respondent in the impugned order



vide GSTIN 33ABVFS6011R2ZF/2017-18 dated 29.12.2023 along with consequential order in FORM GST DRC 07 vide ref no. ZD331223265371R dated 29.12.2023 passed under section 73 of the act to quash the same.

For Petitioner(s): Ms.R. Hemalatha

For Respondent(s): Ms.Amirta Poonko Didinakaran,
Government Advocate (t)

ORDER

This Writ Petition has been filed by the petitioner seeking to call for the records relating to the impugned proceedings passed by the Respondent in the impugned order vide GSTIN 33ABVFS6011R2ZF/2017-18 dated 29.12.2023 along with consequential order in FORM GST DRC 07 vide ref no. ZD331223265371R dated 29.12.2023 passed under section 73 of the act to quash the same.

2.Ms.Amirta Poonko Didinakaran, learned Government Advocate (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.



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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 30.09.2023 was uploaded in the GST Portal tab in view additional notices column and the petitioner had no occasion to open the GST Portal. Even the impugned order dated 29.12.2023 was also uploaded in the view additional notices column, which is violation of principle of natural justice. He would further submit that the petitioner 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 Government Advocate 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% 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 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.

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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 29.12.2023 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.



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(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

Index : Yes/No

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Neutral Citation: Yes/No

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To

The Assistant Commissioner ST FAC
Ayyapanthagal Assessment Circle,
Poonamalle Zone, Kancheepuram
Division, No. 4/109 Chennai -
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KRISHNAN RAMASAMY J.

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