IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.11738 of 2025
and
W.M.P.Nos.13281 and 13283 of 2025

Tvl.Mithra Enterprises,
(Represented by its Proprietrix,
Mrs.Santhapriya),
No.17, Jeeva Nagar 1st Street,
Korukkupet, Chennai.
Tamil Nadu- 600 021. ...Petitioner

Vs.

The Deputy State Tax Officer,
Washermenpet Assessement Circle,
Integrated Commercial Taxes Offices
Building Chennai North Division,
No.32, Elephant Gate Bridge Road,
Room No.206, Chennai- 600 003. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the files of the Respondent herein in FORM GST DRC-07 with Reference

No.:ZD330924170603D dated 25.09.2024 along with detailed order in GSTIN:33MDLPS8907G1ZZV/2020-21 dated 25.09.2024 and to quash the same.

For Petitioner	:	Mr.R.Syed Abdul Wakeel
For Respondent	:	Mr.V.Prashanth Kiran Government Advocate (Taxes)

Order

The challenge in this Writ Petition is to the order dated 25.09.2024 passed by the respondent and to quash the same.

2. The learned counsel for the petitioner would submit that the first respondent has issued a show cause notice in Form DRC 01 on 26.06.2023, followed by reminder notices dated 25.06.2024 and 18.09.2024 and the same were uploaded in the GST portal without serving physical copy to the petitioner. Therefore, the petitioner was not aware of those notices and file to submit its reply. Since the petitioner failed to file reply to the said show cause notice, the respondent has passed the present impugned order. Further, the learned counsel would submit that in the Show Cause the respondent has taken two different heads for levy of tax viz., CGSTand

SGST, but while confirming the demand in the impugned order, the respondent has levied the tax in the IGST head and thus the multiple standpoint of the respondent vitiate the nature of proceedings. It is his further contention that the impugned order suffers from error apparent on the face of the record. Hence, he prays to set aside the same.

3. The learned Government Advocate (Taxes) for the respondent would submit that since the petitioner failed to submit its reply to the show cause notice, assessement order came to be passed. Howerver, he fairly submitted that an error occurred while issuing the show cause notice and the petitioner is liable to pay only IGST. He therefore prays to set aside the impugned order and submitted that the petitioner may be directed to file reply treating the assessement order as show cause notice and thereafter the respondent may be directed to pass orders.

4. Heard both sides. Perused the records.

5. In the case on hand, admittedly show cause notice was issued to the petitioner by uploading in the GST portal, without serving physical copy. Therefore, the petitioner was not aware of the same and failed to submit its reply. That apart, though in the Show Cause the respondent has taken two different heads for levy of tax viz., CGST and SGST, while confirming the demand in the assessement order, the respondent has levied the tax in the IGST head. Therefore, the impugned order suffers from error apparent on the face of the record and the same is passed with non application of mind. Hence, this Court is inclined to set-aside the impugned order, by issuing the following directions:-

i) The order impugned herein is set aside.

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

iii) Thereafter, the petitioner is directed to file a reply treating the impugned order as show cause notice, along with supportive documents within a period of two weeks.

iv) Thereupon, the respondent is directed to consider the reply and shall issue a clear 7 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

6. With the above observations & directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

09.06.2025

arr
Index : yes/no
Neutral Citation : yes/no

To

The Deputy State Tax Officer,
Washermenpet Assessement Circle,
Integrated Commercial Taxes Offices
Building Chennai North Division,
No.32, Elephant Gate Bridge Road,
Room No.206, Chennai- 600 003.

Krishnan Ramasamy,J.,

arr

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