IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.07.2025

Coram:

The Honourable Mr.Justice KRISHNAN RAMASAMY

W.P.No.10551 of 2025
and W.M.P.No.11883 of 2025

Tvl.Suvidha Agro Processing Industry,
Rep. by its Partner Mr.P.Suman Babu,
Survey No.231/1C, 232/4C, 232/5C,
Vichoor Village Road, Near Infant Jesus Church,
Vichoor II, Ponneri Taluk, Tiruvallur,
Tamil Nadu – 600 103.

...Petitioner

Versus

1.The Deputy Commissioner (CT),
GST Appeals, Chennai – I,
Greams Road, Chennai – 600 006.

2.The Deputy State Tax Officer,
Cholavaram Assessment Circle,
Integrated Commercial Taxes Building,
No.32, Elephant Gate Bridge Road,
Chennai – 600 003.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari to call for the records of the 2nd respondent in Demand Order dated 22.12.2023 in GSTIN 33ADCFS7604R1ZM/2017-18 in Demand Reference

No.ZD331223173733K in Form GST DRC-07 and the consequential rejection of Appeal Order dated 18.10.2024 in Form GST APL-02 in Reference No.ZD331024122605Y passed by the 1st respondent and quash the same as illegal, arbitrary and in violation of principle of natural justice.

For Petitioner	:	Ms.C.Rekhakumari,
For Respondents	:	Ms.Amirta Poonkodi Dinakaran, Government Advocate (Tax)

ORDER

Ms.Amirta Poonkodi Dinakaran, learned Government Advocate (Tax) takes notice for the respondents.

2. With the consent of both sides, this writ petition is taken up for final disposal at the admission stage itself.

3. The relief sought in this writ petition is to quash the Demand Order in Form GST DRC-07 dated 22.12.2023 bearing Demand Reference No.ZD331223173733K passed by the 2nd respondent and consequential rejection of Appeal Order in Form GST APL-02 dated 18.10.2024 bearing Reference No.ZD331024122605Y passed by the 1st respondent.

4. The brief facts of the case are that the petitioner has been duly filing its returns and paying all the statutory taxes. On verification of the returns filed by the petitioner for the Financial Year 2017-18, it was found by the Officials that the petitioner has reported disproportionately high purchase turnover in GSTR-2A/2B in comparison to the corresponding sales turnover declared in GSTR-3B. Hence, the 2^{nd} respondent issued a Notice in Form GST DRC-01A, advising the petitioner to pay the ascertained tax amount of Rs.9,40,663/- along with applicable interest in full by 16.09.2023. Then, the 2^{nd} respondent vide Show Cause Notice in Form GST DRC-01 dated 29.09.2023, proposed a liability totalling at Rs.1,04,51,808/- and called upon the petitioner to file its Reply by 29.10.2023 and to appear for personal hearing on any working day within 7 days of receipt of that notice. In response to the said Show Cause Notice, the petitioner filed its Reply vide Form GST DRC-06 dated 30.09.2023. Thereafter, the 2^{nd} respondent passed an Assessment Order in Form GST DRC-07 dated 22.12.2023, imposing a demand of Rs.37,53,374/- comprising tax, interest and penalty on the petitioner. Challenging the Assessment Order, the petitioner preferred an Appeal in Form GST APL-01

dated 23.09.2024 before the 1st respondent. However, the 1st respondent vide Order in Form GST APL-02 dated 18.10.2024, rejected the petitioner's Appeal for the reason that “delay in submission of Appeal”. Hence, left with no other alternative, the petitioner has filed the present writ petition for the aforesaid relief.

5. The learned counsel for the petitioner submitted that the impugned orders were not properly served to the petitioner. It is submitted that the Notice in DRC-01A, Show Cause Notice in DRC-01 and impugned Assessment Order issued by the 2nd respondent were merely uploaded in “View Additional Notices and Orders” column in GST Portal and the same were not served to the petitioner through physical mode and thus, the petitioner was not aware of the Show Cause Notice as well as the impugned Assessment Order. Since the petitioner was not aware of the Show Cause Notice issued by the 2nd respondent, the petitioner was unable to reply to the same and was also unable to appear for personal hearing.

5.1. It is further submitted by the learned counsel for the petitioner that the petitioner came to know about the impugned Assessment Order only when the 2nd respondent intimated the petitioner to pay the tax, interest and penalty. Immediately, thereafter, the petitioner took steps to file the Appeal, but, the extraction of some *prima-facie* documents relating to the case warranted additional time and thus, the time limit for filing the Appeal got lapsed. It is also submitted that the petitioner filed the Appeal with a delay of 156 days and at the time of filing the Appeal, the petitioner deposited 10% of disputed tax towards statutory pre-deposit for filing the Appeal.

5.2. The learned counsel for the petitioner submitted that the impugned Assessment Order was passed only on the basis of a Show Cause Notice and there was no detailed speaking order passed along with the impugned Assessment Order to justify the revised computation. That apart, prior to the passing of impugned Assessment Order dated 22.12.2023 as well as Order in Form GST APL-02 dated 18.10.2024, the petitioner was not provided with an opportunity of personal hearing. Therefore, it is submitted that the impugned orders have been passed in violation of the principles of natural justice and hence, the same are liable to be quashed.

6. The learned Government Advocate (Tax) appearing for the respondents prayed that the impugned orders may be quashed and the matter may be remanded back to the 2nd respondent for reconsideration.

7. Heard the learned counsel for the petitioner and the learned Government Advocate (Tax) for the respondents.

8. From a perusal of the materials available on record, it is seen that the Show Cause Notice and impugned orders were only uploaded in the GST Portal and the same were not served to the petitioner through any other physical mode. Since the petitioner was not aware of the show cause notice uploaded in the GST Portal, the petitioner could not reply to the show cause notice and also, could not appear for personal hearing.

9. It is also seen that the impugned Assessment Order has been passed merely on the basis of the Show Cause Notice and no detailed speaking order has been passed along with the impunged Assessment Order. The petitioner came to know about the impugned Assessment Order only when the 2nd respondent intimated the petitioner to pay tax. Further,

extraction of some relevant documents took additional time and thus, the time limit for filing the Appeal got lapsed. Both the Assessment Order and Order in Form GST APL-02 suffer from violation of the principles of natural justice since prior to the passing of same, the petitioner was not provided with an opportunity of hearing.

10. No doubt, sending notice by uploading in GST Portal is a sufficient service, but, the Officer who finds no response from the petitioner to the show cause notices should have applied his/her mind and explored the possibility of sending notices by way of other modes prescribed in Section 169 of the Central Goods and Service Tax Act, 2017 (for brevity, "CGST Act") which are also the valid mode of service under the said Act, otherwise, the service of notice will not be deemed to be an effective service, rather, it would only fulfilling the empty formalities.

11. Merely passing an *ex-parte* order by fulfilling the empty formalities will not serve any useful purpose and the same would pave way for multiplicity of litigations, not only wasting the time of the Officer concerned, but also the precious time of the Appellate Authority/Tribunal

and this Court as well. Thus, when there is no response from the tax payer to the notice sent through a particular mode, the Officer who is issuing notices should strictly explore the possibilities of sending notices through some other mode as prescribed in Section 169(1) of the CGST Act, preferably by way of RPAD which would ultimately achieve the object of the CGST Act.

12. Once the impugned orders are passed in violation of the principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit. Hence, this Court issues the following directions:

(i) The impugned Demand Order in Form GST DRC-07 dated 22.12.2023 passed by the 2nd respondent and consequential Order in Form GST APL-02 dated 18.10.2024 passed by the 1st respondent are quashed.

(ii) Consequently, the case is remanded back to the 2nd respondent for passing a detailed fresh Assessment Order.

(iii) The petitioner is directed to file its Reply/Objection along with the required documents, if any, within a period of three weeks from the date of receipt of a copy of this order.

(iv) On filing of such Reply/Objection by the petitioner, the 2nd respondent shall consider the same and issue a 14 days clear notice affording an opportunity of personal hearing to the petitioner. Thereafter, the 2nd respondent shall pass a detailed fresh Assessment Order, in accordance with law, as expeditiously as possible.

13. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

11.07.2025

mrr

Index: Yes/No

Speaking Order (or) Non-Speaking Order

To

1.The Deputy Commissioner (CT),
GST Appeals, Chennai – I,
Greams Road, Chennai – 600 006.

2.The Deputy State Tax Officer,
Cholavaram Assessment Circle,
Integrated Commercial Taxes Building,
No.32, Elephant Gate Bridge Road,
Chennai – 600 003.

KRISHNAN RAMASAMY, J.

mrr

W.P.No.10551 of 2025

11.07.2025