IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-03-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 10566 of 2025
AND
WMP NO. 11895 OF 2025

M/s.Medi Jain
Rep by its Proprietor
Mr.Sandeep Nahata,
No.12/7,Nyniappa Street,
Park Town, Chennai - 600 003.
Also at old No.307, New No.418,
1st and 2nd Floor, Mint street,
Park Town, Chennai-600 003

Petitioner(s)

Vs

1. The Commissioner Of Gst And
Central Excise
Chennai South Commissionerate,
MHU Complex, No.692, Anna Salai,
Nandanam, Chennai-600 035

2.The Commissioner
C.T.Annex Building, 3rd Floor,
Greams Road, Chennai - 600 006.

3.The Assistant Commissioner (ST)
Moore Market Assessment Circle,
North -II, Chennai - North,
Integrated Building for commercial
taxes Department,
NO.32, Elephant Gate Bridge Road,
(Wall Tax Road), Vepery, Chennai.

Respondent(s)

PRAYER:-Writ Petition filed under Section Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, seeking to quash the impugned order bearing Ref. No. ZD3312231776875, dated 22.12.2023 and consequently direct the Respondent to provide opportunity to contest the claim and passed an order within the stipulated time in accordance with the Judgment of this Honble court in W.P. No.8468 of 2024 dated 27.3.2024 M/s Tvl. Subh Sri Agencies Vs The Deputy State Tax Officer.

For Petitioner(s): Mr.G.M.Gokul Ram
For M/s.Ram Gokul Adovocates
And Associates

For Respondent(s): Mr.R.P.Pragadish,
Senior Standing Counsel For Rr1
And 2
Ms.P.Selvi,
Government Advocate (t) for R3

ORDER

This Writ Petition has been filed by the petitioner seeking to quash the impugned order bearing Ref. No. ZD3312231776875, dated 22.12.2023 and consequently direct the Respondent to provide opportunity to contest the claim and passed an order within the stipulated time in accordance with the Judgment of this Honble court in W.P. No.8468 of 2024 dated 27.3.2024 M/s Tvl. Subh Sri Agencies Vs The Deputy State Tax Officer.

2.Mr.R.P.Pragadish, learned Senior Standing Counsel takes notice on behalf of the respondents 1 and 2 and Ms.P.Selvi, learned Government Advocate takes notice on behalf of the 3rd respondent.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

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 ocassion to open the GST Portal. Even the impugned order dated 22.12.2023 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 Senior Standing Counsel appearing for the respondents 1 and 2 and learned Government Advocate appearing for the 3rd 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 Senior Standing Counsel appearing for the respondents 1 and 2 and learned Government Advocate appearing for the 3rd respondent 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. It appears that reminder was also sent to the petitioner through the GST portal. 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 the reminder 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 and the reminder 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.

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 22.12.2023 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.

(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 petition is closed.

25-03-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

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To

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