IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 01-04-2025**

CORAM

**THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY**

**WP Nos.11405 & 11410 of 2025**
**AND**
**W.M.P.Nos.12869, 12871, 12878 & 12879 of 2025**

Tvl Sanjay Logistics,
Rep by its proprietor Suresh Kumar,
No 52/1, 1st Floor, MNJ Complex,
Mannady Street,
Chennai,Tamil Nadu - 600 001.

Petitioner(s)
in both W.Ps

Vs

The Assistant Commissioner CT
Muthialpet Assessmetnt Circle Zone I,
Chennai North. Chenani -3.

Respondent(s)
in both W.Ps

**PRAYER in W.P.No.11405 of 2025:-**Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records of the Respondent vide Order in SCN No ZD330823062104Q under section 73 with DRC-07 issued by the Respondent dated on 25/03/2024, quash the same.

**PRAYER in W.P.No.11410 of 2025:-**Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records of the Respondent vide Order in GSTIN/33BANPS1421H2ZS/2022-2023 dated 23.03.2024 and quash the same.

**In both W.Ps**

For Petitioner(s): Ms.U.Elakya

For Respondent(s): Mr.V.Prashanth Kiran,
Government Advocate (t)

**COMMON ORDER**

These writ petitions have been filed by the petitioner seeking to call for the records of the respondent vide Order in GSTIN/33BANPS1421H2ZS/2022-2023 dated 23.03.2024 and Order in SCN No ZD330823062104Q under section 73 with DRC-07 dated on 25.03.2024 and to quash the same.

2.Mr.V.Prashanth Kiran, 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.

4.Learned counsel appearing for the petitioner would submit that, in the present case, the petitioner have not received physical copy of the show cause notice and also personal hearing notice. The show cause notice dated 08.08.2023 was uploaded in the GST Portal tab and the petitioner had no ocassion to open the GST Portal and therefore, they could not file their reply to the show cause notice. Thereafter, the *exparte* impuged order came to be passed under Section 74 of the Tamil Nadu Goods and Services Tax Act, 2017, without showing any reason amounting to fraud or any wilful misstatement or suppression of facts to evade tax. 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 orders 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 appearing for the 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 proceedings 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. In such circumstances, this Court is of the view that the impugned assessment order came to be passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notice.

8.No doubt sending notice by uploading in portal is a sufficient service, but, the Officer who is sending the repeated reminders, inspite of the fact that no response from the petitioner to the show cause notices etc., the Officer should have applied his/her mind and explored the possibility of sending notices by way of other modes prescribed in Section 169 of the GST Act, which are also the valid mode of service under the Act, otherwise it will not be an effective service, rather, it would only fulfilling the empty formalities. Merely passing an *ex parte* order by fulfilling the empty formalities will not serve any useful purpose and the same will only 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 Act, preferably by way of RPAD, which would ultimately achieve the object of the GST Act.

9.Therefore, this Court finds that there is a lack of opportunities being provided to serve the notices/orders etc., effectively to the petitioner. Hence, this Court is inclined to set-aside the impugned orders with terms, by issuing the following directions:-

(i) The orders impugned herein are 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, these writ petitions are disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are also closed.

**01-04-2025**

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

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To:-
The Assistant Commissioner CT
Muthialpet Assessmetnt Circle Zone I,
Chennai North. Chenani -3.

**KRISHNAN RAMASAMY J.**

rst

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