IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-03-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 11076 of 2025
AND
WMP NO. 12489 OF 2025,WMP NO. 12491 OF 2025,WMP NO. 12493 OF 2025,WP NO. 11080 OF 2025,WMP NO. 12488 OF 2025

Tvl.Purushothaman Jayaprabha
(Trade Name Asian Tools Services)
represented by its Proprietor
2/242, Tamil Garden, Veera Sivaji Street.,
Phase III, AGS Colony, Mugalivakkam
Chennai - 600 116

Petitioner in both W.Ps

Vs

Deputy Commercial Tax Office
Nandambakkam South II, Chennai
South Tamil Nadu.

Respondent in W.Ps

PRAYER in W.P.No.11076 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records in DRC-07 bearing Reference No ZD3308242451 in GSTIN/lD

33BAEPJ0977J1ZN/April 2019-March 2020 dated 27.08.2024 passed by the respondent and to quash the same.

<u>PRAYER in WP No. 11080 of 2025:-</u> Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of Rectification Order bearing Reference no 2D331224020285X in GSTIN/ID 33BAEPJ0977J1ZN / April 2018 to March 2019 dated 03.12.2024 passed by the respondent.

In all W.ps

For Petitioner(s): Mr.R. Ganesh Kanna

For Respondent(s): Mr.T.N.C.Kaushik,
Additional Government Pleader (t)

<u>COMMON ORDER</u>

These writ petitions have been filed by the petitioner seeking to call for the records in DRC-07 bearing Reference No:ZD3308242451 in GSTIN/lD 33BAEPJ0977J1ZN/April 2019-March 2020 dated 27.08.2024 and the Rectification Order bearing Reference No 2D331224020285X in GSTIN/ID 33BAEPJ0977J1ZN / April 2018 to March 2019 dated 03.12.2024 passed by the respondent and to quash the same.

2.Mr.T.N.C.Kaushik, learned Additional Government Pleader (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 any physial copy of the show cause notice and also personal hearing notice. The show cause notices dated 23.05.2024 and 23.12.2023 were 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 orders dated 27.08.2024 and 03.12.2024 were 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 in each case 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 Additional Government Pleader 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 in each case, 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 Additional Government Pleader 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 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 notices issued through the GST Portal and the original of the said show cause notice were not furnished to them. It appears that reminders were 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 reminders 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 reminders 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 orders 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 orders dated 27.08.2024 and 03.12.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(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 in each case, 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 closed.

27-03-2025

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

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To:

Deputy Commercial Tax Office
Nandambakkam south II, Chennai
South Tamil Nadu.

KRISHNAN RAMASAMY J.

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