WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 17-04-2025**

CORAM

**THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY**

**WP No. 13090 of 2025**
**AND**
**WMP Nos. 14608 & 14609 of 2025**

Tvl. Thirumalai Agencies
Rep by its Proprietor Shokkappan
Venkatachalam,
No.1/143-1, HP Bunk Opp,
Vellichandai Main Road, Marandahalli,
Palacode 636 809.

Petitioner(s)

Vs

The Deputy State Tax Officer-1
Palacode Circle.

Respondent(s)

**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 Respondent's order dated 28.08.2024 in GSTIN:33AOCPV2897N1Z6 /2019-20 and to quash the same as it has been passed in violation of principles natural justice.

For Petitioner(s): Mr.Adithya Reddy

For Respondent(s): Ms.P.Selvi,
Government Advocate (tax)

WEB COPY



**ORDER**

Ms.P.Selvi, learned Government Advocate (Tax), who takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

**2.** The challenge in this Writ Petition is to the order dated 28.08.2024 passed by the respondent relating to the financial year 2019-20.

**3.** The learned counsel for the petitioner would submit that the petitioner is engaged in the business-Dealer of steel and cement and is registered under the Goods and Service Tax Act, 2017. The respondent has passed the impugned assessment order dated 28.08.2024, alleging that there was mismatch in GSTR-9 and GSTR-3B returns and also alleged under declaration of ineligible ITC during the financial year 2019-20. The main grievance of the petitioner is that due to financial distress, the petitioner surrendered its registration and the registration of the petitioner was cancelled and the same was made effective from 01.10.2023. However, the respondent had issued show cause notice dated

https://www.mhc.tn.gov.in/judis

WEB COPY



23.05.2024 to the petitioner through GST common portal, the petitioner had no occasion to view the show cause notice in the common GST portal. Since the petitioner failed to file reply to the said show cause notice, the respondent has passed the present impugned order, confirming the proposals contained in the show cause notice. Being aggrieved over the same, the petitioner preferred a rectification application on 05.02.2025 and the same was rejected, vide order dated 21.02.2025, on the ground that the rectification application was filed after three months from the date of the impugned order.

**3.1.** It is also submitted by the learned counsel for the petitioner that the petitioner is ready and willing to deposit 10% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remand the matter back to the Authority for fresh consideration.

**4.** Ms.Selvi, learned Government Advocate (tax) appearing for the respondent fairly submitted that since the petitioner has voluntarily come forward to deposit 10% of the disputed tax, the prayer sought for by the

WEB COPY

petitioner may be considered.

**5.** 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 notice was uploaded on the GST Portal Tab. According to the petitioner, the registration of the petitioner was cancelled, and he 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.

**6.** 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

https://www.mhc.tn.gov.in/judis

WEB COPY



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.

**7.** 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 order with terms, by issuing the following directions:-

i) The impugned order dated 28.08.2024 is set aside.

WEB COPY

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

iii) The petitioner is directed to deposit 10% of the disputed tax, which the petitioner had voluntarily come forward to make such payment, within a period of two weeks from the date of receipt of a copy of this order.

iv) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

v) Thereupon, the respondent is directed to consider the reply and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

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

**17-04-2025**

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

WEB COPY



**KRISHNAN RAMASAMY J.**

jd

To

The Deputy State Tax Officer-1
Palacode Circle.

**WP No. 13090 of 2025**

**17-04-2025**