IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 11971 of 2025
AND
WMP NO. 13533 OF 2025,WMP NO. 13537 OF 2025

Thilagavathi Pounraj,
W/o Pennagaram Kuppusamy Pounraj,
No 5-a Railway South Line, Road,
Dharmapuri 636 701.

Petitioner(s)

Vs

1. Assessment Unit, National,
Faceless Assessment Center,
Income Tax Department,
Rep. By Income Tax Officer,
Government Of India,
Ministry Of Finance, North Block,
New Delhi 110 001.

2.Income Tax Officer
45F7, Dharmapuri, Tamilnadu.

3.ICICI Bank Limited,
Rep By Its Branch Manager
No 74, Nethaji By Pass Road,
Dharmapuri, Tamil Nadu 636 701.

4.South Indian Bank Limited
Rep By Its Branch Manager,
DRV Annexe, 64,
Nethaji By Pass Road,
Dharmapuri, Tamil Nadu 636701.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Certiorarified Mandamus, to call for the entire records of the notice dated 30.03.2023 culminating in the consequential Impugned Assessment Order dated 17.02.2024 bearing DIN No. ITBA/AST/S /147/2023- 24/1061062306 (1), for the assessment years 2019-2020, issued by Respondent No. 1 and quash the same as being illegal and contrary to the established principles of law and to consequently direct Respondents No. 3 and 4 to de-freeze the Petitioners savings bank accounts, bearing No. 605701521728 (ICICI Bank, No.74, Nethaji Bye Pass Road, Dharmapuri Branch, Dharmapuri) and 0511053000020865 (South Indian Bank, DRV Annexe, 64, Nethaji By-Pass Road, Dharmapuri Branch, Dharmapuri) respectively.

For Petitioner(s): Ms.B.Anandhi

For Respondent(s): Dr.B.Ramaswamy
Senior Standing Counsel
For R1 and R2
Ms.M.Bhavadharini
For M/s.Acuity Law Associates
For R3

ORDER

This writ petition has been filed by the petitioner challenging the impugned assessment order dated 17.02.2024, passed by the 1st respondent.

2.Learned counsel for the petitioner would submit that the petitioner was not aware of the assessment proceedings initiated by the 1st respondent. All the notices were uploaded in the GST portal and the petitioner had no occasion to view the GST portal. The petitioner was also not aware of the notices which were sent to email ID. The petitioner provided their accountant's email ID to the 1st respondent – Department for communication. Since the petitioner's accountant left the job he never informed the petitioner about the notices. Only after the attachment of Bank account of the petitioner, they came to know about the impugned assessment order being passed by the 1st respondent. Hence, prayed to set side the impugned order with a direction to the 1st respondent to give one more opportunity to the petitioner to put forth their case.

3.Learned Senior Standing Counsel appearing for the respondents 1 and 2 would submit that the notices were sent to the petitioner through email ID and the same was also uploaded in the GST portal. Since the respondents – Department does not receive any reply, they proceeded to pass the final order.

4.Heard the learned counsel for the petitioner as well as the learned Senior Standing Counsel appearing for the respondents 1 and 2 and perused the materials available on record.

5.Considering the submissions made by the learned counsel for the petitioner as well as the learned Senior Standing Counsel appearing for the respondents 1 and 2, it is evident that the show cause notice and reminders were issued to the petitioner by uploading the same in the GST portal and it was also sent through email. According to the petitioner, the petitioner had no occasion to view the GST portal and the mail ID provided to the respondents-Department was their erstwhile accountant's email ID and therefore, they were not aware of the notices issued by the 1st respondent. When such being the case, this Court is of the view that when the respondents -Department does not receive any 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. The respondents – Department can preferably choose RPAD mode to serve notice which will be an ultimate mode for serving notices since the petitioner cannot take a plea that the notices were not received by them.

6.In view of the above, this Court finds that sufficient opportunities were not provided to the petitioner. Hence, this Court is inclined to set-aside the impugned order with terms, by issuing the following directions:-

> (i) The order impugned herein is set aside and the matter is remanded back to the 1st respondent for fresh consideration.
>
> (ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks

from the date of portal made available for the petitioner to submit their reply.

(iii) On filing of such reply/objection by the petitioner, the 1st 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.

(iv) Upon production of the copy of this order, the respondents 3 and 4 are directed to de-freeze the petitioner's bank account forthwith.

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

23-06-2025

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

To

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KRISHNAN RAMASAMY J.

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