IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-04-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 12943 of 2025
AND
WMP NO. 14473 OF 2025,WMP NO. 14474 OF 2025

M/s.Cambriya Homes,
Rep By Its Prop
Mr.V.Karthikeyan,
No. 13/2, Nehru Street, Kandanchavadi,
Chennai, Tamil Nadu 600096.

Petitioner

Vs

1. The State Tax Officer,
Sholinganallur Assessment Circle,
No.240, 2nd Floor, Integrated Commercial Taxes
And Registration Building,
Government Farm Village,
Nandhanam, Chennai 600035.

2.The Bank Manager,
Kotak Mahindra Bank Perungudi Branch,
14, Omr Road, Kandanchavadi,
Perungudi,
Chennai 600096.

Respondents

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the Assessment Order dated 30-09-2024 via DRC 07 in GSTIN 33BIDPK1628L1ZC/2021-22 (Impugned Order) issued by the 1st respondent and quash the same as illegal and arbitrary and to direct the 1st respondent to remove the recovery notice dated 20.02.2025 and remand back the matter to the 1st respondent.

For Petitioner(s): Mr.A.Dhamodaran

For Respondent(s): Mr.V.Prashanth Kiran,
Government Advocate (t) For R1

ORDER

This writ petition has been filed by the petitioner challenging the impugned assessment order dated 30.09.2024 passed by the 1st respondent for the Financial Year 2021-22 and to direct the 1st respondent to remove the recovery notice dated 20.02.2025 and remand back the matter to the 1st respondent.

2.Mr.V.Prashanth Kiran, learned Government Advocate (Taxes), takes notice on behalf of the 1st respondent.

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

4.Learned counsel for the petitioner would submit that an *ex parte* impugned assessment order has been passed without providing an opportunity to the petitioner to put forth their case. The notice in DRC-01A was issued by way of RPAD on 03.08.2024 and the same was returned with an endorsement "Unclaimed". Thereafter, DRC-01 was uploaded in the GST portal on 13.08.2024 and the reminder was issued by the 1st respondent through RPAD on 24.09.2024, by fixing a date for personal hearing on 26.09.2024. Since the petitioner's consultant was unwell, he was not able to prepare the reply for the show cause notice and for the personal hearing and further, the petitioner was advised by their GST consultant that three compulsory personal hearing will be given by the 1st respondent. Under such impression, the petitioner was preparing for the third personal hearing with all relevant documents. But, the 1st respondent passed the assessment order dated 30.09.2024 and uploaded the same in the GST portal.

5.He would further submit that without providing sufficient personal hearing opportunity, the 1st respondent passed an assessment order dated 30.09.2024, which is violation of principles of natural justice and hence he prayed to set aside the impugned assessment order.

6.Learned Government Advocate appearing for the 1st respondent would submit that initially DRC-01A was issued through GST portal on 31.07.2024 and since there was no reply from the petitioner, again DRC-01A was sent through RPAD on 03.08.2024 and the petitioner deliberately refused to claim the notice. Subsequently, DRC-01 was uploaded in the portal on 13.08.2024 and since there was no reply from the petitioner, a reminder was sent through RPAD on 24.09.2024. The petitioner received the reminder notice but failed to file their reply and appear for personal hearing. Therefore, the 1st respondent proceeded to pass the assessment order dated 30.09.2024. Thus, the 1st respondent had taken effective steps to serve notices and reminders to the petitioner and the failure was on the part of the petitioner who deliberately failed to make their submissions. Hence, he prayed for dismissal of the present writ petition.

7.Heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the 1st respondent and perused the materials available on records.

8.Considering the submissions made by the learned counsel for the petitioner as well as the learned Government Advocate appearing for the 1st respondent, it is evident that in the present case, DRC-01A was issued by way of RPAD and the same was returned as "unclaimed", which shows that the petitioner had refused to receive the notice. Subsequently, the show cause notice in DRC-01 was issued on 13.08.2024 to the petitioner. Since there was no reply filed by the petitioner, the 1st respondent sent reminder through RPAD on

24.09.2024. Even after the receipt of the reminder notice, the petitioner deliberately failed to file their reply and therefore, the assessment order came to be passed on 30.09.2024.

9.No doubt the impugned assessment order is an *ex parte* order but, the petitioner cannot blame the 1st respondent that they have not provided sufficient opportunity to the petitioner to put forth their case. The 1st respondent has taken possible steps to serve the petitioner and the *ex parte* assessment order was invited by the petitioner on their own accord. Thus, this Court is not inclined to entertain the present writ petition and in fact, this Court appreciate Mr.Santhosh Kumar, State Tax Officer, Sholinganallur Assessment Circle/the 1st respondent herein for taking alternative steps to serve notices to the petitioner instead of merely uploading the notices in the GST portal.

10.For the reasons stated above, this Court Court is inclined to dismiss the present writ petition with costs. Accordingly, this writ petition stands dismissed with costs of Rs.10,000/- (Rupees Ten Thousand Only), payable by the petitioner to the Cancer Institute (WIA), (Regional Cancer Centre), Adyar, Chennai – 600 020, Union Bank of India, Madhya Kailash Branch (SB A/C.No.149710011005477). Consequently, connected miscellaneous petitions are closed.

15-04-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
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KRISHNAN RAMASAMY J.

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