IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.07.2025

Coram:
The Honourable Mr.Justice KRISHNAN RAMASAMY

W.P.No.15805 of 2025
and W.M.P.No.17882 of 2025

Tvl.Evershine Industries,
Rep. by its Proprietor Mrs.Zenab Bakir Electricwala
No.142/4, New No.293, Linghi Chetty Street,
Chennai – 600 001.

...Petitioner

Versus

The Assistant Commissioner,
Harbour Assessment Circle,
Integrated Commercial Tax Office,
Elephant Gate Bridge Road,
North I – Chennai North,
Tamil Nadu – 600 003.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari to call for the records of the respondent in GSTIN: 33AAFPZ7108K1ZC/2019-20 and consequential Order u/s. 74 and Summary of the Order in Form GST DRC – 07 bearing Reference No.ZD3306242578172 both dated 24.06.2024 and quash the same.

For Petitioner	:	Mr.Ganesh for Mr.Rupesh Sharma
For Respondent	:	Mr.C.Harsha Raj, Special Government Pleader (Tax)

ORDER

Mr.C.Harsha Raj, learned Special Government Pleader (Tax) takes notice for the respondent.

2. With the consent of both sides, this writ petition is taken up for final disposal at the admission stage itself.

3. The relief sought in this writ petition is to quash the Order in GSTIN: 33AAFPZ7108K1ZC/2019-20 and Order in Form GST DRC – 07 bearing Reference No.ZD3306242578172 dated 24.06.2024 passed by the respondent.

4. The brief facts of the case are that the petitioner has been duly filing its returns and paying all the statutory taxes. While so, it was found by the Income Tax Officials that the petitioner effected inward supplies from a dealer viz., Tvl.Hawra Marketing who was found to be non-existent in their reported place of business and thus, Input Tax Credit (ITC) to the corresponding inward supplies made from the said non-existent supplier is

inadmissible as per the provisions of the TNGST Act. Hence, the respondent vide Show Cause Notice in Form GST DRC-01 dated 15.05.2024, proposed a liability totalling at Rs.1,62,204/- and called upon the petitioner to file its Reply to the Show Cause Notice by 15.06.2024 and to appear for personal hearing on 27.05.2024 at 11.30 a.m. That apart, the respondent vide Reminder Notices dated 13.06.2025 & 19.06.2024, once again called upon the petitioner to file its Reply and to appear for personal hearing. However, the petitioner neither filed any reply to the notices issued by the respondent nor appeared for personal hearing. Hence, the respondent has passed the Order in GSTIN: 33AAFPZ7108K1ZC/2019-20 and Order in Form GST DRC – 07 bearing Reference No.ZD3306242578172 dated 24.06.2024, directing the petitioner to pay the demand of Rs.1,63,336/- comprising tax, interest and penalty by 22.09.2024. Aggrieved over the same, the petitioner has filed the present writ petition for the relief stated *supra*.

5. The learned counsel for the petitioner submitted that the Show Cause Notice, Reminder Notices and impugned order have been merely uploaded in "Additional Notices and Orders" column in GST Portal and the

same were not served to the petitioner through physical mode. Therefore, the petitioner was not aware of the Show Cause Notice as well as the impugned order. Since the petitioner was not aware of the Show Cause Notice, the petitioner was unable to reply to the same and was also unable to appear for personal hearing.

5.1. It is further submitted by the learned counsel for the petitioner that the petitioner had surrendered their GST Registration in the year 2022 and thus, the petitioner was not even aware of the proceedings initiated against them. The petitioner came to know about the impugned order only when the respondent directed the petitioner to make the payment.

5.2. The learned counsel for the petitioner submitted that without even affording an opportunity of personal hearing to the petitioner, the respondent has passed the impugned order confirming the proposals made in the Show Cause Notice. Therefore, it is submitted that the impugned order has been passed in violation of the principles of natural justice and hence, the same is liable to be quashed.

5.3. 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 quash the impugned order and remand the case back to the respondent for fresh consideration.

6. The learned Special Government Pleader (Tax) appearing for the respondent fairly submitted that since the petitioner has voluntarily came forward to deposit 10% of the disputed tax, the relief sought by the petitioner may be considered.

7. Heard the learned counsel for the petitioner and learned Special Government Pleader (Tax) for the respondents.

8. The facts on record reveal that the respondent has passed the impugned order without even affording an opportunity of hearing to the petitioner to put forth its case. Further, the impugned order has been merely uploaded in the GST portal and the same was not served to the petitioner through physical mode. Hence, as rightly pointed out by the learned

counsel for the petitioner that the impugned order suffers from violation of the principles of natural justice.

9. No doubt, sending notice by uploading in GST Portal is a sufficient service, but, the Officer who finds no response from the petitioner to the show cause notices should have applied his/her mind and explored the possibility of sending notices by way of other modes prescribed in Section 169 of the CGST Act which are also the valid mode of service under the said Act, otherwise, the service of notice will not be deemed to be an effective service, rather, it would only fulfilling the empty formalities.

10. Merely passing an *ex-parte* order by fulfilling the empty formalities will not serve any useful purpose and the same would 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 CGST Act,

preferably by way of RPAD which would ultimately achieve the object of the CGST Act.

11. Since the impugned order has been passed in violation of the principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit. However, the petitioner has voluntarily came forward to deposit 10% of the disputed tax, to which, the learned Special Government Pleader (Tax) appearing for the respondent is also agreeable. Therefore, this Court is inclined to issue/pass the following directions/orders:

(i) The impugned order dated 24.06.2024 passed by the respondent is quashed.

(ii) Consequently, the case is remanded back to the respondent for fresh consideration.

(iii) Liberty is granted to the petitioner to deposit 10% of the disputed tax, within a period of two weeks from the date of receipt of a copy of this order.

(iv) Thereafter, the petitioner shall file its Reply along with supporting documents, if any, within a period of two weeks.

(v) On filing of such Reply by the petitioner, the respondent shall consider the same and pass fresh orders in accordance with law, after issuing a 14 days clear notice affording an opportunity of personal hearing to the petitioner, as expeditiously as possible.

12. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

16.07.2025

mrr

Index: Yes/No

Speaking Order (or) Non-Speaking Order

To

The Assistant Commissioner,
Harbour Assessment Circle,
Integrated Commercial Tax Office,
Elephant Gate Bridge Road,
North I – Chennai North,
Tamil Nadu – 600 003.

KRISHNAN RAMASAMY, J.

mrr

W.P.No.15805 of 2025

16.07.2025