IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-04-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 13227 of 2025
AND
WMP NO. 14787 OF 2025,WMP NO. 14792 OF 2025,WP NO. 13231 OF 2025,WMP NO. 14788 OF 2025,WMP NO. 14795 OF 2025

Tvl.A.G.Chandrasekaran,
Rep by its Managing Partner,
Mr.G.Chandrasekaran,
15/31, Iyyappan Koil Street,
Poonthottam Velapadi, Vellore 632001.

Petitioner(s)
in both W.Ps

Vs

The Assistant Commissioner (ST)(FAC),
Vellore (South) Assessment Circle, Vellore.

Respondent(s)
in both W.Ps

<u>PRAYER in WP No. 13227 of 2025:-</u>Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records of the Respondent in GSTIN:33AAIFA9262E1ZL/ 2018-

19 dated 11.04.2024 and to quash the same and consequently direct the respondent to given an opportunity of personal hearing.

PRAYER in WP No. 13231 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records of the Respondent in GSTIN 33AAIFA9262E1ZL/ 2019-20 dated 03-08-2024 and to quash the same and consequently direct the respondent to given an opportunity of personal hearing.

In both W.Ps

For Petitioner(s): Mr.P. R Kumar

For Respondent(s): Ms.Amirta Poonkodi Dinakaran, Government Advocate (t)

COMMON ORDER

These Writ Petitions have been filed by the petitioner seeking to call for the records of the Respondent in GSTIN:33AAIFA9262E1ZL/ 2018-19 dated 11.04.2024 and GSTIN 33AAIFA9262E1ZL/ 2019-20 dated 03-08-2024 and to quash the same and consequently direct the respondent to given an opportunity of personal hearing.

2.Ms.Amirta Poonkodi Dinakaran, learned Government Advocate (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 physical copy of the show cause notice and also personal hearing notice. The show cause notices dated 27.12.2023 and 21.05.2024 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 11.04.2024 and 03.08.2024 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 each cases in respect of the impugned assessment periods and prayed to set aside the impugned orders 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 Government Advocate 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 in each cases by the petitioner in respect of the impugned assessment period, 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 Government Advocate appearing for the repondent 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 uploaded on 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 notices were not furnished to them. In such circumstances, this Court is of the view that the impugned assessment orders came to be passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notices.

8.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 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.

9.Therefore, this Court finds that there is a lack of opportunities being provided to the petitioner. Hence, this Court is inclined to set-aside the impugned orders with terms, by issuing the following directions:-

(i) The orders impugned herein are set aside on condition that the petitioner deposits 25% of the disputed tax amount in each cases, in respect of the impugned assessment period, 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.

15-04-2025

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

The Assistant Commissioner (ST)(FAC),
Vellore (south) Assessment Circle,
Vellore.

KRISHNAN RAMASAMY J.

rst

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