IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :04.04.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.12212 of 2025
and
W.M.P.Nos.13771 & 13773 of 2025

Tvl Ganesh Kumar Mills
Rep by its Proprietor Palanisamy Myilsamy
166 G3 Chettipalayam Road
Palladam 641664. ...Petitioner

Vs

1 The Joint Commissioner GST [RESPONDENT]
Palladam 1 Assessment Circle no. 25
Commercial Tax Office Building Pollachi Road
Palladam 641664.

2 The Deputy Commissioner GST
Tiruppur III Palladam 1 Assessment Circle
No.25 Commercial Tax Office Building
Pollachi Road Palladam 641664.

3 The State Tax Officer (FAC)
Palladam 1 Assessment Circle Tiruppur III
Tirupur. ...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records relating to the order Vide Form GST DRC No.07 bearing Reference No.ZD330724343599Z dated 30.07.2024 passed by the third Respondent and to quash the same

For Petitioner	:	Mr.G.V.Ramanigopal
For Respondents 1 and 2	:	Mr.Su.Srinivasan Senior Panel Counsel and Mr.J.Nalinidhar Junior Panel Counsel
For Respondent-3	:	Mr.V.Prashanth Kiran Government Advocate.

Order

Heard Mr.G.V.Ramanigopal learned counsel appearing for the petitioner, Mr.Su.Srinivasan, learned Senior Panel Counsel and Mr.J.Nalinidhar learned Junior Panel Counsel, who takes notice on behalf of the respondents 1 and 2 and Mr.V.Prashanth Kiran, learned Government Advocate, who takes notice on behalf of the respondent No.3. 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 passed by the third respondent dated 30.07.2024 and to quash the same.

3. The learned counsel appearing for the petitioner contended that the petitioner was unaware of any of the proceedings initiated against the petitioner, inasmuch as, none of the communications/show cause notice/personal hearing notice/reminder notices were served on the petitioner directly through physical mode of service but made it available only on the GST Portal, hence, the petitioner failed to file reply and respond to such notices, however, the third respondent without even hearing the petitioner, passed the impugned order. Further, it is stated that in pursuance of the impugned order, the respondent has also initiated recovery proceedings against the petitioner, whereby, 100% of the disputed tax has already been recovered from the petitioner, hence, he prays for setting aside the impugned order and remanding the matter back to the Authority for fresh consideration.

4. The learned Government Advocate (T) for the third respondent fairly submitted that since it is stated by the learned counsel for the petitioner that 100% of the disputed tax has already been recovered from the petitioner's account, subject to the verification of the said statement, the prayer sought for by the 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 and all other allied communications were uploaded on the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notice issued through the GST Portal. Further, the original of the said show cause notice was not furnished to the petitioner. In such circumstances, this Court is of the view that the impugned order came to be passed without affording any opportunity of personal hearing to the petitioner.

5.1 No doubt, sending notice by uploading in portal is a sufficient service, but, the Officer who finds no response from the petitioner to the show cause notices, instead of sending repeated reminders, 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, the service of notice will not be deemed to 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 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 Act, preferably by way of RPAD, which would ultimately achieve the object of the GST Act.

6. Therefore, this Court is of the view that the impugned order suffers from violation of principles of natural justice. Thus, once the order is passed in violation of principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit, however, considering the fact that 100% of the disputed tax has already been recovered from the petitioner, this Court is not inclined to impose any condition but pass/issue the following orders/directions:

i) The impugned order dated 30.07.2024 passed by the third respondent is set aside.

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

iii) The petitioner is directed to file a reply along with supportive documents within a period of two weeks from the date of receipt of a copy of this order.

and

iv) Thereupon, the third 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.

7. In the result, the Writ Petition is allowed on the aforesaid terms.

No costs. Consequently, connected Miscellaneous Petitions are closed.

04.04.2025

sd

Index : yes/no
Neutral Citation : yes/no

To

1 The Joint Commissioner GST
Palladam 1 Assessment Circle no. 25
Commercial Tax Office Building Pollachi Road
Palladam 641664.

2 The Deputy Commissioner GST
Tiruppur III Palladam 1 Assessment Circle
No.25 Commercial Tax Office Building
Pollachi Road Palladam 641664.

3 The State Tax Officer (FAC)
Palladam 1 Assessment Circle Tiruppur III
Tirupur.

Krishnan Ramasamy,J.,

sd

W.P.No.12212 of 2025

04.04.2025