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

W.P.Nos.12121& 12127 of 2025
and
W.M.P.Nos.13682 & 13683 of 2025

Tvl. Sri Rahul Transport and Earth Movers
(REPRESENTED BY ITS PARTNER
MRS.HEMA SREE)
DOOR NO 8/27 VINAYAGAR KOVIL STREET
BK PUDHUR COIMBATORE
TAMIL NADU 641 008
...Petitioner in both W.Ps.

Vs

The State Tax Officer (ST)
INSPECTION -7 COIMBATORE
TAMIL NADU. ...Respondent in both W.Ps.

Prayer in W.P.No.12121 of 2025

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records in FORM GST DRC -07 with Reference No.ZD330624154363J dated 18.06.2024 along with detailed order in GSTIN 33AEVFS3955F1ZK dated 18.06.2024 for the tax period November 2022 - March 2023 and to quash the same.

Prayer in W.P.No.12127 of 2025

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records in FORM GST DRC - 08 with Reference No. ZD330125221896G dated 25.01.2025 along with detailed order in GSTIN 33AEVFS3955F1ZK dated 25.01.2025 for the tax period November 2022 - March 2023 and quash the same.

For Petitioner in both W.Ps.	:	Mr.K.A.Parthasarathy
For Respondent in both W.Ps.	:	Mr.K.Vasanthamala Government Advocate (T)

COMMON ORDER

Heard Mr.K.A.Parthasarathy, learned counsel appearing for the petitioner and Mr.K.Vasanthamala learned Government Advocate (T) who takes notice on behalf of the respondent. 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 respondent dated 18.06.2024 along with detailed order dated 18.06.2024 for the tax period November 2022 - March 2023 and also the rectified proceedings in Form GST DRC-08 dated 25.01.2025 along with detailed order dated 25.01.2025 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 respondent without even hearing the petitioner, passed the impugned orders dated 18.06.2024 and said order dated 18.06.2024 has been rectified vide another proceeding dated 25.01.2025, whereby, there is an enhancement of penalty, when as per the original proceedings, the penalty is lower, therefore, challenging the same, W.P.No.12127 of 2025 is filed. Further, it is stated that in pursuance of the impugned orders, the respondent has also initiated recovery proceedings against the petitioner, whereby, 50% of the disputed tax has already been recovered from the petitioner, hence, he prays for setting aside the impugned orders and remanding the matters back to the Authority for fresh consideration.

4. The learned Government Advocate (T) for the respondent fairly submitted that since it is stated by the learned counsel for the petitioner that

50% 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 orders 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* orders 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 orders suffer from violation of principles of natural justice. Thus, once the orders are 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 50% 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 passed by the respondent in Form GST DRC-07 dated 18.06.2024 along with detailed order dated 18.06.2024 for the tax period November 2022 - March 2023 and the rectification order in Form GST DRC-08 dated 25.01.2025 along with detailed order dated 25.01.2025 are set aside.

ii) Consequently, the matters are remanded to the 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 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 Petition is closed.

04.04.2025

sd

Index : yes/no
Neutral Citation : yes/no

To

The State Tax Officer (ST)
INSPECTION -7 COIMBATORE
TAMIL NADU.

Krishnan Ramasamy,J.,

sd

W.P.Nos.12121& 12127 of 2025

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