IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-04-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 12308 of 2025
AND
WMP NO. 13895 OF 2025,WP NO. 12316 OF 2025,WMP NO. 13904 OF 2025,WMP NO. 13908 OF 2025,WMP NO. 13906 OF 2025

Sri SM Payals
Represented by its Proprietor,
Annamalai Sivakumar,
3/A70 New No.3, Pachagounder Street,
Thirumalaigiri, Salem,
Tamil Nadu 636 307.

Petitioner(s) in both W.Ps

Vs

The State Tax Officer
(Also known as The Commercial Tax officer),
Salem Rural Assessment Circle,
Station Integrated commercial Taxes Building,
Room No 320, 3rd Floor, Pitchards Road,
Hasthampatty, Salem 636 007.

Respondent(s)
in both W.Ps

PRAYER in W.P.No.12308 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the files of the Respondent herein in FORM GST DRC-07 bearing Reference No. ZD330824309517B dated 31.08.2024 for the Tax Period April 2019 - March 2020 and quash the same.

PRAYER in WP No. 12316 of 2025:- Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the files of the Respondent herein in GSTIN/33GNFPS4344B1Z5/2019-20 in FORM GST DRC-07 proceedings in Order Reference No. ZD330824229688X dated 26.08.2024 and quash the same.

In both W.Ps

For Petitioner(s): Ms.Siri Chandana. K

For Respondent(s): Mr.T.N.C.Kaushik,
Additional Government Pleader (t)

COMMON ORDER

These writ petitions have been filed seeking to call for the records on the files of the respondent herein in FORM GST DRC-07 bearing Reference No. ZD330824309517B dated 31.08.2024 and proceedings in Order Reference No. ZD330824229688X dated 26.08.2024 for the Tax Period April 2019 - March 2020 and quash the same.

2.Mr.T.N.C.Kaushik, learned Additional Government Pleader (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, for the same assessment year and for the same defects three different show cause notices were issued by the respondent and the proposal made by the respondent were confirmed in two impugned assessment orders. Further, all the notices and the reminders were uploaded in the GST portal and no physical copy of the notices were served to the petitioner. Since the petitioner had no ocassion to open the GST portal, he was not aware of the proceedings. Even the impugned orders dated 26.08.2024 and 31.08.2024 were also uploaded in the GST portal in "View Additional Notices and Orders" column. He would further submit the petitioner is ready and willing to pay 25% of the disputed tax demand in respect of the impugned assessment period 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 Additional Government Pleader appearing for the respondent would admit that two assessment orders were passed by the respondent for the very same issue pertaining to same financial year 2019-2020

6.Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the repondent and perused the materials available on record.

7.In these cases, three identical show cause notices were uploaded by the respondent in "View Additional Notices and Orders" column in GST common portal. Being unaware of the said notices, no reply was filed by the petitioner. Under these circumstances, two impugned orders were passed by the respondent, whereby the tax demand was determined twice for the very same discrepancy of returns pertaining to very same financial year 2019-2020.

8.Further, it is clear that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned orders. 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 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.

07-04-2025
(½)

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

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To:-

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KRISHNAN RAMASAMY J.

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