IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-04-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 13334 of 2025
AND
WMP NO. 14921 OF 2025,WMP NO. 14920 OF 2025

Mr.Srinivasan Balasubramanian,
Proprietor of Jaeja Foods,
No. 112 E, AyipalayamAthanur,
Rasipuram, Namakkal 636 301.

Petitioner(s)

Vs

The Deputy State Tax Officer-I,
Rasipuram Circle, Namakkal District.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records of the respondent in Show Cause Notice issued in DRC-01 dated 30.09.2023 and the consequential order in GSTIN 33CGOPB3199M1ZY/ 2017-18 dated 19.12.2023 and to quash the same as erroneous, arbitrary, illegal, without jurisdiction apart from being barred by limitation.

For Petitioner(s): Mr.V.Sundareswaran

For Respondent(s): Ms.P.Selvi,
Government Advocate (t)

ORDER

This writ petition has been filed by the petitioner seeking to call for the records of the respondent in Show Cause Notice issued in DRC-01 dated 30.09.2023 and the consequential order in GSTIN 33CGOPB3199M1ZY/ 2017-18 dated 19.12.2023 and to quash the same.

2.Ms.P.Selvi, 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.Leaned counsel for the petitioner would submit that the petitioner is engaged in the business of manufacture and supply of bakery products. The petitioner was prompt in filing the GST returns. While so, due to financial strain, the petitioner was not able to continue the business and therefore, he filed an application on 10.11.2020 for cancellation of their GST registration. The respondent after verifying the liability if any, exist and by order dated 17.11.2020, cancelled the GST registration of the petitioner. In view of the cancellation of GST registration certificate, the petitioner ceased to be a tax payer on the file of the respondent and the petitioner cannot have any link to see or to have any activity in the GST portal. However, the respondent had uploaded the show cause notice DRC-01 in the GST portal on 30.09.2023 and also the impugned order dated 19.12.2023 for the period 2017-18.

5.He would further submit that after the date of cancellation of GST registration certificate, the respondent ought to have sent the proceedings by registered post or any other mode contemplated under Section 169 of the GST Act. Further, now the petitioner is ready and willing to pay 10% of the disputed tax demand in respect of the impugned assessment period and prayed to set aside the impugned order 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.

6.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 each 10% of the disputed tax demand 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.

7.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondent and perused the materials available on record.

8.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 was uploaded on the GST Portal Tab even after the petitioner's GST registration was cancelled. According to the petitioner, since the petitioner cannot view the GST portal once their registration got cancelled , they were not aware of the issuance of the show cause notice issued through the GST Portal and the original of the said show cause notice not furnished to them.

9.When the petitioner's GST registration was cancelled, it is not appropriate to the respondent to upload the notices in the portal and except the petitioner to view the same. Therefore, in the event of cancellation of GST registration, the respondent has to send notices to the address of the petitioner and merely by uploading it to the portal will serve no purpose to the respondent. The respondent cannot expect the petitioner to view the portal and provide reply after the cancellation of their GST registration. The respondent can very well utilise the address provided by the petitioner in the cancellation application submitted by the petitioner Further, in the present case, admittedly, no such communication was made and thus, this Court finds that there is default in the part of the respondent in issuance of notice, passing impugned order and the decision making process. Thus, the impugned order is liable to be set aside. Accordingly, this Court passes the following order:-

(i) The orders impugned herein are set aside on condition that the petitioner deposits each 10% 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, this writ petition is 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
Neutral Citation:Yes/No

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To:-

The Deputy State Tax Officer-I
Rasipuram Circle, Namakkal District.

KRISHNAN RAMASAMY J.

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