IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.13957 of 2025
and
W.M.P.No.15709 of 2025

Mohanraj Titus Dorairaj ...Petitioner

Vs.

Deputy State Tax Officer,
Government of Tamil Nadu,
Commercial Tax Department
(SIPCOT) Assessment Circle,
Ranipet, Vellore District. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records in respect of the proceedings in GSTIN:33AMFPT0029D1Z1/2019-2020 dated 01.02.2024 by the respondent and quash the same, consequently direct the respondent to unfreeze the GSTIN/ID:33AMFPT0029D1Z1 on his file.

For Petitioner : Mr.T.V.G.Kartheeban

For Respondent : Ms.AmirthaPoonkodi Dinakaran
Government Advocate (Taxes)

ORDER

Ms.Amirtha PoonkodiDinakaran, learned Government Advocate (Taxes), 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 dated 01.02.2024 passed by the respondent for the AY 2019-20 and to quash the same.

3. The learned counsel for the petitioner would submit that the respondent has issued a show cause notice dated 21.06.2022 by uploading the same in the GST portal without serving them through physical mode. Therefore, the petitioner was not aware of the same and therefore failed to file reply. Since the petitioner failed to file reply to the said show cause notice, the respondent has confirmed the proposals contained in the show cause notice and passed the impugned order and the same was also uploaded in the GST portal. Subsequently, the respondent passed an order dated 12.12.2024 dropping the proceedings and again the respondent has passed the order dated 06.03.2024 confirming the earlier proceedings. Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order. That apart, the petitioner's bank account was also attached by the respondent.

3.1. It is also submitted by the learned counsel for the petitioner that the petitioner is ready and willing to deposit 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remand the matter back to the Authority for fresh consideration. Further, he would submit that there is bank attachment and the same may be lifted, subject to the payment of 25% of the disputed tax. Hence, he prayed for appropriate directions.

4. The learned Government Advocate (Taxes) for the respondent fairly submitted that since the petitioner has voluntarily come forward to deposit 25% of the disputed tax, 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 was 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 and the original of the said show cause notice was not furnished to them. In such circumstances, this Court is of the view that the impugned assessment order came to be passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notice.

6. 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.

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

i) The impugned order passed by the respondent dated 21.04.2024 is set aside.

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

iii) The petitioner is granted liberty to deposit 25% of the disputed tax, which the petitioner themselves had voluntarily came forward to make such payment, within a period of two weeks from the date of receipt of a copy of this order.

iv) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

v) Thereupon, the first 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.

vi) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment if any, made on the bank account of the Petitioner, cannot survive any longer and hence, it is lifted. As a sequel, the respondent is directed to instruct the concerned bank to release the attachment on the bank account of the petitioner, immediately upon the production of proof with regard to the payment of 25% as stated above.

8. With the above observations & directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

21.04.2025

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Index : yes/no
Neutral Citation : yes/no

To

Deputy State Tax Officer,
Government of Tamil Nadu,
Commercial Tax Department
(SIPCOT) Assessment Circle,
Ranipet, Vellore District.

Krishnan Ramasamy,J.,

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