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W.P.No.14049 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.14049 of 2025

and

W.M.P.Nos.15804 & 15805 of 2025

P A and Co Contractors,
Represented by its Partner A Senthilkumar
No. 14 /1 133 NA Salem Main Road
Pudusampalli Mettur TK Salem,TN-636 403

...Petitioner

Vs

THE DEPUTY STATE TAX OFFICER-2(ST)
METTUR ASSESSMENT CIRCLE
6/1 182 SAKTHI NAGAR
RAMAN NAGAR POST SALEM MAIN ROAD
METTUR DAM-636 404.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records pertaining to the impugned order dated 26.08.2024 of the respondent passed in proceedings with Reference ZD330824228060S quash the same and further to direct the respondent to recredit the sum of Rs.3,72,318 to the electronic credit ledger of the petitioner

For Petitioner : Mr.S.Ramamurthy for M/s. N.Murali
For Respondent : Ms.Amirta Poonkodi Dinakaran



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Government Advocate (T)

Order

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Heard Mr.S.Ramamurthy, learned counsel appearing for the petitioner and Ms.Amirta Poonkodi Dinakaran 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 26.08.2024 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 them, 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 on-line Portal, hence, the petitioner failed to file reply and respond to such notices, however, the respondent without even hearing the petitioner, passed the ex parte impugned order, which suffers from violation of principles of



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natural justice and is liable to be aside; that in pursuance of the impugned order, the respondent has also initiated recovery proceedings against the petitioner, whereby, entire disputed tax has already been recovered from the petitioner through electronic credit ledger, 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 respondent fairly submitted that since it is stated by the learned counsel for the petitioner that entire 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



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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* 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



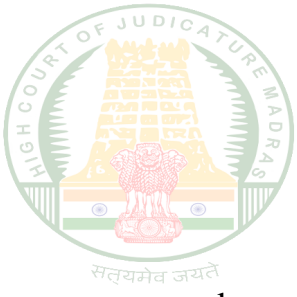
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notices should strictly explore the possibilities of sending notices through some other mode as prescribed in Section 169(1) of the Act, preferably by way of RPAD, which would ultimately achieve the object of the GST Act.

6. Therefore, this Court is of the view that the impugned order suffer 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 entire 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 dated 26.08.2024 is set aside.

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



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iii) The petitioner is directed to file a reply along with supportive documents within a period of three 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 14 clear 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.

22.04.2025

sd

Index : yes/no

Neutral Citation : yes/no

To

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Krishnan Ramasamy,J.,

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