IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.13043 of 2025
and
W.M.P.Nos.14552 & 14555 of 2025

M/s.Green Impex
Rep.by Thofeeque Ahmed,
Proprietor
80/25, Achari Street, Wahab Market,
Pernambut, Gudiyattam,
Vellore-635810. ... Petitioner

..Vs..

The Deputy Commercial Tax Officer (ST)
Gudiyatham (West) Assessment Circle
Commercial Taxes Department
Thirupattur, 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 of the respondent order dated 31.08.2024 in GSTIN(33APDPT9384C2ZN) and quash the same and consequently direct the Respondent to redo the fresh assessment.

For Petitioner : Mr.V.G.Vijay Raj

For Respondent : Ms.Amirtha Poonkodi Dinakaran
Government Advocate (Taxes)

ORDER

Ms.Amirtha Poonkodi Dinakaran, 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 31.08.2024 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 to the petitioner on 30.05.2025 and the same was uploaded in the GST portal without serving it through physical mode and the petitioner's auditor has noticed the same belatedly, due to which the petitioner was not aware of the same and could not file its

reply in time. The petitioner vide reply dated 10.06.2024 requested the respondent to grant time. But the respondent without considering the same has passed the impugned assessment order dated 31.08.2024 demanding tax along with interest and penalty for the assessment year 2019-2020.

4. Further, he would submit that the impugned order came to be passed without affording an opportunity of hearing to the petitioner and therefore the same is passed in violation of principles of natural justice and is liable to be aside.

4.**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.

5**.** The learned Additional Government Pleader (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.

6. Heard both sides. Perused the records.

7. 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 within time 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. That apart, though the petitioner has sought time to file reply, the respondent without considering the same has passed the impugned order.

8**.** 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 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 31.08.2024 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.

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

08.04.2025

arr (2/2)
Index : yes/no
Neutral Citation : yes/no

To

The Deputy Commercial Tax Officer (ST)
Gudiyatham (West) Assessment Circle
Commercial Taxes Department
Thirupattur, Vellore District.

Krishnan Ramasamy,J.,

arr

W.P.No.13043 of 2025

08.04.2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.13043 of 2025
and
W.M.P.Nos.14552 & 14555 of 2025

M/s.Green Impex
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For Petitioner : Mr.V.G.Vijay Raj

For Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader
(Taxes)

ORDER

This matter has been listed under the caption 'For Being Mentioned'.

2. In the order dated 08.04.2025 passed in the aforesaid Writ Petition, inadvertently, in the appearance portion of the order, the name of the respondent counsel was wrongly typed as '***Ms.Amirtha Poonkodi Dinakaran, Government Advocate (Taxes)***' instead of '***Mr.T.N.C.Kaushik, Additional Government Pleader (Taxes)***'.

3. Registry is directed to carry out the aforesaid corrections and issue fresh order copy to the parties concerned.

13.06.2025

arr (2/2)

To

The Deputy Commercial Tax Officer (ST)
Gudiyatham (West) Assessment Circle
Commercial Taxes Department
Thirupattur, Vellore District.

Krishnan Ramasamy,J.,

arr

W.P.No.13043 of 2025

13.06.2025