IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-04-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 13292 of 2025
AND
WMP NOS. 15259, 15260 & 15261 OF 2025

PEC Limited,
Represented by its Authorized
Signatory,
Jitesh Aggarwal,
Having Registered Office at F-block,
3rd Floor, Flatted Factory Complex,
F and G Block, Jhandewalan Jewellery
Complex
Rani Jhansi Road, New Delhi 110 055.

Petitioner(s)

Vs

1. Additional Commissioner,
Office of the Principal Commissioner
of CGST and Central Excise
Chennai North Commissionerate,
No.26/1 Mahatma Gandhi Road,
Chennai 600 034.

2.Deputy Commissioner,
Nungambakkam Division,
Office of the Superintendent of GST

and Central Excise
Nungambakkam Division,
No.26/1, Mahatma Gandhi Road
Chennai 600 034.

3.The Branch Manager
KG Marg Branch
IDBI Bank19,
Ground Floor Surya Kiran Building
Kasturba Gandhi Marg, New Delhi 110
001.

Respondent(s)

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the impugned order of the first respondent passed in Order in Original No.137/2023-CH.N (ADC) dated 20.12.2023 and quash the same.

For Petitioner(s): Mr.N Murali

For Respondent(s): Mr.B.Ramanakumar,
Senior Standing Counsel for R1
and R2

ORDER

The present Writ Petition is filed challenging the Order in Original dated 20.12.2023 passed by the first respondent.

2. Mr.B.Ramanakumar, learned Senior Standing Counsel takes notice on behalf of the respondents 1 & 2. By consent of the parties, the main Writ Petition is taken up for final disposal at the time of admission stage itself.

3. The learned counsel for the petitioner submitted that the petitioner is engaged in supply of goods (trading) and is registered under the Goods and Service Tax Act, 2017. It is submitted that the petitioner has voluntarily closed their business and cancelled their registration with effect from 21.01.2019, as there was no further business activity in the State of Tamil Nadu. The petitioner's Chennai office was also closed down and the petitioner vacated the premises with effect from 22.09.2020. However, during the course of audit, it was identified that there was an excess claim of ITC under Reverse Charge Mechanism.

3.1. It is submitted by the learned counsel for the petitioner that subsequently, a show cause notice in SCN No.29/2023 dated 25.09.2023 was issued to the petitioner in respect of the impugned assessment period 2017-

2018. The petitioner had submitted its replies on 24.05.2023, 28.11.2023 & 05.12.2023 to the said show cause notice and also sought an opportunity of personal hearing. The first respondent fixed the personal hearing on 01.12.2023 and the petitioner's representative appeared virtually and explained the nature of transactions. However, all of a sudden, the impugned order dated 20.12.2023 came to be passed by the first respondent, confirming the proposals.

4. It was further submitted that the impugned order was uploaded in the GST portal, and the same was not served on the petitioner by tender or sending it by RPAD. Since the petitioner's office was closed as early as in September 2020, there was no communication at the Chennai address by the respondent's office. Under these circumstances, the 2nd respondent issued two Garnishee notices dated 12.03.2025 and 19.03.2025 to their Bankers at Chennai, and subsequently, the petitioner's Bank account was attached. It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, they would be able to explain the alleged discrepancies.

5. Mr.B.Ramanakumar, learned Senior Standing Counsel appearing for the respondents submitted that if this Court finds it appropriate, either the matter may be remanded to the authority or leave may be granted to the petitioner to file an appeal.

6. Heard both sides and perused the materials available on record.

7. Considering the submissions made by the learned counsel on either side, it appears that the respondents 1 & 2 failed to send the Order in Original dated 20.12.2023 to the petitioner's address at the time of cancellation of registration. Instead of sending notice/orders to his address, it was uploaded on the common GST portal, thereby, the petitioner was unaware of the impugned order dated 20.12.2023 and the subsequent proceedings initiated, and thus, the petitioner was unable to file the appeal within the stipulated time.

8. In view of the above, this Court issues the following directions:

(i) The petitioner shall file an appeal within a period of 30 days from the date of receipt of a copy of this order.

(iii) The Appellate Authority shall take the appeal on record and pass appropriate orders on merits and in accordance with law, as expeditiously as possible, after providing an sufficient opportunity to the petitioner.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

17-04-2025

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

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