



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-04-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 13452 of 2025

AND

WMP Nos.15089 and 15092 of 2025

Tvl.Ashokan,
Ashok Traders,
Represented by its Proprietor-Asokan T,
29, Srinivasapuram,
Bhavani, Erode,
Tamil Nadu 638 301.

Petitioner(s)

Vs

The Deputy State Tax Officer-I,
Office of the Deputy Commercial Tax
Officer,
Bhavani Assessment Circle,
161, Commercial Taxes Building
(Annexure Building),
Meenakshisundaranar Salai
(Brough Road),
Erode -638 001.

Respondent(s)



Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records relating to the impugned proceedings passed by the respondent in the order vide GSTIN:33AGVPA6261E1Z1/2017-18 dated 28.12.2023 and summary order issued in DRC 07 vide Ref No.ZD3312232361413 dated 28.12.2023 under Section 73 of the act along with consequential proceedings of rejection of rectification of order vide Ref No.ZD330225199897R dated 20.02.2025 to quash the same and pass orders.

For Petitioner(s): Ms.R.Hemalatha

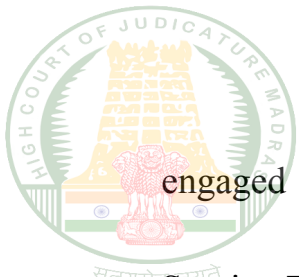
For Respondent(s): Mrs.K.Vasanthamala
Government Advocate (Tax)

ORDER

The present Writ Petition is filed challenging the orders dated 28.12.2023 passed by the respondent, relating to the assessment year 2017-18.

2. Mrs.K.Vasanthamala, learned Government Advocate (Tax) takes notice on behalf of the respondent. By consent of the parties, the main Writ Petition is taken up for disposal for final disposal at the stage of admission.

3. The learned counsel for the petitioner submitted that the petitioner is



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engaged in the business of fishing rods and is registered under the Goods and Service Tax Act, 2017. During the relevant period viz., 2017-18, the petitioner had filed its return and paid the appropriate taxes. However, on verification of returns filed by the petitioner, it was noticed that the petitioner has declared less outward supplies than the inward supplies.

4. Pursuant thereto, a notice in Form ASMT-10 dated 02.08.2023 followed by an intimation notice in Form DRC 01A and a show cause notice in Form DRC-01 dated 29.09.2023 were issued to the petitioner through GST common portal. Thereafter reminder notice was issued mentioning the date of personal hearing to the petitioner. However, the petitioner had neither filed its reply nor availed the opportunities of personal hearing. Hence, the impugned orders came to be passed by the respondent, confirming the proposals.

5. The learned counsel for the petitioner submitted that the impugned orders are challenged on the premise that neither the show cause notices nor the impugned order of assessment has been served by tendering to the petitioner or



by registered post, instead it was uploaded in the common portal, thereby, the petitioner was unaware of the initiated proceedings and thus unable to participate in the adjudication proceedings.

6. It was further submitted that the petitioner is ready and willing to pay 25% of the disputed tax and that he may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal, to which the learned Government Advocate appearing for the respondent does not have any serious objection.

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 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.

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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 orders with terms, by issuing the following directions:-

i) The impugned orders dated 28.12.2023 passed by the respondent are set aside.

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

iii) The petitioner is directed to deposit 25% of the disputed tax, which the petitioner had voluntarily come 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 respondent is directed to consider the reply and issue



a clear 14 days notice affording an opportunity of personal hearing to the petitioner and decide the matter in accordance with law.

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

17-04-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

The Deputy State Tax Officer-I,
Office of the Deputy Commercial Tax Officer,
Bhavani Assessment Circle,
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(Annexure Building),
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