IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.16171 of 2025
and
W.M.P.Nos.18298 & 18299 of 2025

Venture Health Needs,
Rep. by its Proprietrix Mrs.Nanda Kumari Sanjay Sa ma
5/14, Brindavan Avenue,
Ground Floor,
West Tambaram,
Chennai- 600 045. ...Petitioner

Vs.

The Assistant Commissioner,
Tambaram:Tambaram:Chengalattu
Integrated Commercial Tax and Registration-
Dept Building, South Tower,
Room No.342, Nandanam, Guindy Taluk,
Chennai 600 035. ...Respondent

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 records relating to the impugned order in Reference No.ZD3312231863800/2017-18 dated 23.12.2023 passed by the Respondent, and quash the same as arbitrary, illegal.

For Petitioner : Ms.V.Vijayalakshmi

For Respondent : Ms.P.Selvi
Government Advocate (Taxes)

Order

Ms.P.Selvi, 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 23.12.2023 passed by the respondent and the consequential rejection order dated 12.03.2025 passed by the respondent and to quash the same.

3. The learned counsel for the petitioner would submit that the respondent has issued a show cause notice on 30.09.2023 followed by reminders on 31.10.2023 and 15.11.2023 and the same was uploaded in the GST portal. The petitioner was not aware of those notices and 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 present impugned assessment order. Subsequently, the petitioner filed an application for rectification of the impugned order, which was also rejected by the respondent. Therefore, the learned counsel would submit that the impugned orders 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 orders.

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 orders and remand the matter back to the Authority for fresh consideration.

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 orders with terms, by issuing the following directions:-

i) The orders impugned herein are 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 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.

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

02.06.2025

arr
Index : yes/no
Neutral Citation : yes/no

To

The Deputy State Tax Officer,
(Formerly known as Deputy Commercial Tax Officer)
NUNGAMBAKKAM: CENTRAL-III:
CHENNAI CENTRAL
No.88 Mayor Ramanathan Salai,
Chetput,
Chennai 600 031.

Krishnan Ramasamy,J.,

arr

W.P.No.16171 of 2025

02.06.2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.16171 of 2025
and
W.M.P.Nos.18298 & 18299 of 2025

Venture Health Needs,
Rep. by its Proprietrix Mrs.Nanda Kumari Sanjay Sa ma
5/14, Brindavan Avenue,
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Chennai- 600 045. ...Petitioner

Vs.

The Assistant Commissioner,
Tambaram:Tambaram:Chengalpattu
Integrated Commercial Tax and Registration-
Dept Building, South Tower,
Room No.342, Nandanam, Guindy Taluk,
Chennai 600 035. ...Respondent

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 records relating to the impugned order in Reference No.ZD3312231863800/2017-18 dated 23.12.2023 passed by the Respondent, and quash the same as arbitrary, illegal.

For Petitioner : Ms.V.Vijayalakshmi

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

ORDER

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

2. In the order dated 12.03.2025, passed by this Court in W.P.No.16171 of 2025, inadvertently some portion of the prayer i.e.***.and the consequential rejection order bearing Reference No.ZD3303250765783/2017-18 Dated 12.03.2025 passed by the Respondent***. has been omitted to be typed and therefore the aforesaid lines have to be incorporated in the prayer portion, which reads as follows:

> “*Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating to the impugned order in Reference*

No.ZD3312231863800/2017-18 dated 23.12.2023 passed by the Respondent and the consequential rejection order bearing Reference No.ZD3303250765783/2017-18 Dated: 12.03.2025 passed by the Respondent, and quash the same as arbitrary, illegal."

3.Secondly, the name of the respondent counsel has been wrongly typed as ***Ms.P.Selvi, Government Advocate (Taxes)*** instead of ***Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes)*** in the cause title portion of the aforesaid order.

4. Thirdly, the respondent name in the "To address" portion of the order has been wrongly typed as

The Deputy State Tax Officer,
(Formerly known as Deputy Commercial
Tax Officer)
NUNGAMBAKKAM: CENTRAL-III:
CHENNAI CENTRAL
No.88 Mayor Ramanathan Salai,
Chetput,Chennai 600 031.

instead of

The Assistant Commissioner,

Tambaram:Tambaram:Chengalpattu
Integrated Commercial Tax and Registration-
Dept Building, South Tower,
Room No.342, Nandanam, Guindy Taluk,
Chennai 600 035.

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

30.06.2025

arr
Index : yes/no
Neutral Citation : yes/no

To

The Assistant Commissioner,
Tambaram:Tambaram:Chengalpattu
Integrated Commercial Tax and Registration-
Dept Building, South Tower,
Room No.342, Nandanam, Guindy Taluk,
Chennai 600 035.

Krishnan Ramasamy,J.,

arr

W.P.No.16171 of 2025

30.06.2025