IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-04-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 14721 of 2025
AND
WP NO. 14737 OF 2025,WMP NO. 16629 OF 2025,WMP NO. 16632 OF 2025,WMP NO. 16639 OF 2025,WP NO. 14734 OF 2025,WMP NO. 16614 OF 2025,WMP NO. 16628 OF 2025,WMP NO. 16615 OF 2025,WP NO. 14726 OF 2025,WMP NO. 16619 OF 2025,WMP NO. 16621 OF 2025,WP NO. 14741 OF 2025,WMP NO. 16634 OF 2025,WMP NO. 16637 OF 2025

M/s.Vijayaa Store,
rep by its Proprietrix M.Sridevi,
No.499, Chinnakadai Veedhi,
Salem – 636 001.

Petitioner in all W.Ps

Vs

1.The State Tax Officer,
Office Of The Assistant Commissioner (ST),
Salem Bazaar Circle, Salem.

2.The Branch Manager
Indian Overseas Bank,
No.16 by 17 Car Street,
Salem-636 001.

Respondents in all W.Ps

PRAYER in WP No. 14721 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of the 1st respondent in his proceedings in Order Ref. No.ZD330524015135W, quash the order dated 30.04.2024, passed therein for the financial year 2017-18.

PRAYER in WP No. 14726 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of the 1st respondent in his proceedings in Order Ref.No.ZD330524015293S, quash the order dated 30.04.2024, passed therein for the financial year 2018-19.

PRAYER in WP No. 14734 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of the 1st respondent in his proceedings in Order Ref.No.ZD330824223442N, quash the order dated 24.08.2024 passed therein for the financial year 2019-20.

PRAYER in WP No. 14737 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of the 1st respondent in his proceedings in Order

Ref.No.ZD330824224534H, quash the order dated 24.08.2024 passed therein for the financial year 2020-2021.

PRAYER in WP No. 14741 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of the first respondent in his proceedings in Order Ref.No. ZD3308242246189, quash the order dated 24.08.2024 passed therein for the financial year 2021-2022.

In all W.Ps.

For Petitioner(s): Mr.P.V.Sudakar

For Respondent(s): Mr.T.N.C.Kaushik,
Additional Government Pleader (t)
For R1

COMMON ORDER

These Writ Petitions have been filed by the petitioner seeking to call for the records on the file of the 1st respondent in his proceedings in Order Ref. Nos.ZD330524015135W and ZD330524015293S dated 30.04.2024 and the proceedings in Order Ref Nos.ZD330824223442N, ZD330824224534H and ZD3308242246189 dated 24.08.2024 and to quash the same.

2.Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes), takes notice on behalf of the 1st respondent.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.Learned counsel appearing for the petitioner would submit that, in the present case, the show cause notices dated 23.12.2023 were issued by the 1st respondent for the Financial Years 2017-18 to 2021-22, calling for the production of books of accounts and records. In response, the petitioner by letter dated 23.01.2024 sought for extension of time to produce the records called for by the 1st respondent. However, the 1st respondent proceeded to pass the impugned assessment orders. Since the impugned assessment orders dated 30.04.2024 and 24.08.2024 for the Financial Years 2017-18 to 2021-22 were uploaded in the GST Portal tab in "view additional notices" column, the petitioner was not aware of the same. The 1st respondent without providing any opportunity to the petitioner to putforth their case, has passed the impugned assessment orders and uploaded the same in the GST portal, which is violation of principle of natural justice. He would further submit that the petitioner is ready and willing to pay 25% of the disputed tax demand in respect of each impugned assessment period and prayed to set aside the impugned orders directing the 1st respondent to permit the petitioner to file their reply and provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

5.Learned Additional Government Pleader appearing for the 1st respondent would submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of 25% of the disputed tax demand by the petitioner in respect of the impugned assessment periods, if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.

6.Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the 1st respondent and perused the materials available on record.

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 notices were issued to the petitioner on 23.12.2023, calling for the production of books of accounts and other records for the Financial Years 2017-18 to 2021-22. According to the petitioner, the petitioner sought extension of time for production of such records called for by the 1st respondent. However, due to her ailments, she was not able to produce the books of accounts and other records within the time sought by her. Further, since the reminders were uploaded in the GST Portal, the petitioner was not aware of the same. Subsequently, the impugned assessment orders were also uploaded in the GST Portal and the petitioner came to know about the impugned assessment orders only when the bank account of the petitioner came to be attached. In such circumstances, this Court is of the view that the impugned assessment orders came to be passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notice.

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 passed by the 1st respondent dated 30.04.2024 & 24.082024 are set aside on condition that the petitioner deposits 25% of the disputed tax amount in respect of each impugned assessment periods, as agreed by the petitioner, within a period of four weeks from the date of receipt of a copy of this order.
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> (ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.
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> (iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice by fixing the date of personal

hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

iv) Upon production of proof with regard to the payment of 25% of the disputed tax made by the petitioner, the 1st respondent-Department is directed to issue appropriate direction on the petitioner's banker towards de-freezure of the petitioner's bank account forthwith.

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

25-04-2025

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

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To

1.The State Tax Officer
Office Of The Assistant Commissioner (ST),
Salem Bazaar Circle, Salem.

2.The Branch Manager
Indian Overseas Bank, No.16 By 17 Car
Street, Salem-636 001.

KRISHNAN RAMASAMY J.

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WP Nos.14721, 14726, 14734,14737
&14741 of 2025

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