



WEB COPY

WP No. 13506 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-04-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 13506 of 2025

AND

WMP NO. 15147 OF 2025, WMP NO. 15149 OF 2025

Tvl. Krishna Clothing Co.,
33, Arasamaram Pillayar Koil Street,
Chinna Kadai Veethi, Second
Agraharam, Salem 636 001.
Represented by its Partner
S.Subramanian

Petitioner(s)

Vs

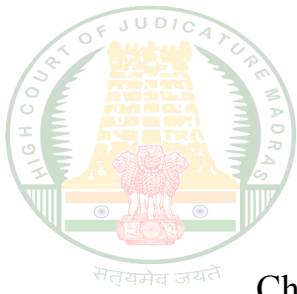
Assistant Commissioner
Salem Bazaar, Salem- I, Salem.

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 order bearing Reference No.ZD330324119880M dated 19/03/2024, passed by the Respondent, quash the same and pass.

For Petitioner(s): Mr.Sivaraman Jayasankar

For Respondent(s): Ms.P.Selvi,
Government Advocate (tax)



ORDER

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Challenging the impugned order dated 19.03.2024 bearing Reference No. ZD330324119880M, passed by the respondent relating to the assessment year 2018-2019, the petitioner had filed the present Writ Petition.

2. Ms.P.Selvi, learned Government Advocate (tax), takes notice on behalf of the respondent. 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 firm is engaged in the business of supply of cotton yarn and is registered under the Goods and Service Tax Act, 2017. During the relevant period 2018-19, the petitioner had filed its return and paid appropriate taxes. While so, on scrutiny of returns filed by the petitioner, the following discrepancies were noticed:

(i) Excess claim of Input Tax Credit

(ii) Short payment of tax as per GSTR-1 and GSTR-3B



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4. Pursuant thereto, a show cause notice in Form DRC-01 dated 04.12.2023 was issued to the petitioner through GST common portal and thereafter, personal hearing opportunity was also afforded to the petitioner. However, the petitioner had neither filed its reply nor paid the tax. Hence, the impugned order came to be passed by the respondent, confirming the proposals.

5. The impugned order is 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 under the head “View Additional Notices and Orders” tab, 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.

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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.

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



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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 dated 19.03.2024 passed by the respondent is set



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

iii) The petitioner is granted liberty to deposit 25% of the disputed tax, which the petitioner themselves 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 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.

17-04-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

jd

To

Assistant Commissioner

Salem Bazaar, Salem- I, Salem.



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KRISHNAN RAMASAMY J.
jd

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