IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.04.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**
W.P.No.13695 of 2025
and
W.M.P.Nos.15391 & 15392 of 2025

Tvl IND TECH LIFTS
Rep by its Manager N Ramesh
No.129 D1 Crystal Garden
Sri Lakshmi Nagar 2nd Main Road
Sridevi Kuppam Road Valasaravakkam
Chennai 600008.

...Petitioner

Vs

The Deputy State Tax Officer-1
Office of the Deputy Commercial Tax Officer
Porur Assessment circle Poonamallee. ...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 records of the impugned proceedings of the respondent herein in GSTIN 33AAGF19277H1Z2/2019-20 dated 20.08.2024 along with its consequential Summary Order in Ref.No. ZD330824171217D dated 20.08.2024 for the Tax Period April 2019- March 2020 and quash the same

For Petitioner : Mr.S.Rajasekar
For Respondent : Mr.V.Prashanth Kiran
Government Advocate (T)

Order

Heard Mr.S.Rajasekar learned counsel appearing for the petitioner and Mr.V.Prashanth Kiran, learned Government Advocate (T) who 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 passed by the respondent dated 20.08.2024 along with its consequential Summary Order dated 20.08.2024 and to quash the same.

3. The learned counsel for the petitioner contended that the impugned order came to be passed against the petitioner due to the reasons that the petitioner failed to file reply nor appeared for the personal hearing, however, the non-filing of reply and non-appearance before the respondent is neither wilful nor wanton but due to the fact that the petitioner was not aware of the show cause notice and the other allied communications being uploaded in the Web Portal; that further, the Consultant engaged by the petitioner had fallen ill during such point of time, but, the respondent, without providing an opportunity of hearing to the petitioner, passed the impugned order. Therefore, the learned counsel submits that the impugned order suffers from violation of principles of natural justice. The learned counsel fairly submitted that in the event, this Court is inclined to set aside the impugned order, the petitioner is ready and willing to deposit 25% of the disputed tax, and thus, prays for appropriate orders.

4. The learned Government Advocate (T) 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. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. 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 through the GST Portal and that apart, the petitioner's Consultant, who used to file GST returns had fallen ill during the relevant point of time. Further, the original of the said show cause notice was not furnished to the petitioner. 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.

6.1 No doubt, sending notice by uploading in portal is a sufficient service, but, the Officer who finds no response from the petitioner to the show cause notices, instead of sending repeated reminders, 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, the service of notice will not be deemed to 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 would 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.

6.2 Therefore, this Court is inclined to set aside the impugned order, as the same suffers from the violation of principles of natural justice. Thus, once the order is passed in violation of principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit, however, considering the fact that the petitioner has come forward to deposit 25% of the disputed tax in the event the impugned order is set aside, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order passed by the respondent dated 20.08.2024 and the consequential summary order dated 20.08.2024 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 have 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.

and

v) Thereupon, the respondent is directed to consider the reply and shall issue a 14 clear days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

17.04.2025

sd

Index : yes/no

To
The Deputy State Tax Officer-1
Office of the Deputy Commercial Tax Officer
Porur Assessment circle Poonamallee.

Krishnan Ramasamy,J.,

sd

W.P.No.13695 of 2025

17.04.2025