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W.P.No. 16988 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.16988 of 2025

and

W.M.P.Nos.19278 & 19279 of 2025

M/S. R.P.P. ELECTRICALS,
REPRESENTED BY ITS PROPRIETOR
MR. KHADAR IMTIAZ PASHA
NO./255B KRISHNAGIRI ROAD
CHOKKANATHAPURAM VILLAGE.
NALLUR POST HOSUR - 635 109.

...Petitioner

Vs.

THE ASSISTANT COMMISSIONER (ST)
HOSUR (NORTH)-II ASSESSMENT CIRCLE
HOSUR - 635 101.

...Respondent

Prayer :-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the connected records pertaining to the impugned proceedings of the Respondent herein made in GSTIN/33AAVPI2427A1Z22/2017-2018 dated 29/08/2023 and QUASH the same.

For Petitioner : Mr.Manoharan S.Sundaram
For Respondent : Mrs.K.Vasanthamala
Government Advocate (T)



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Order

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Heard Mr.Manoharan S.Sundaram learned counsel appearing for the petitioner and Mrs.K.Vasanthamala, 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 29/08/2023 and to quash the same.

3. The learned counsel appearing for the petitioner would submit that all pre-intimation notice in DRC-01A, show cause notice and notice for personal hearing were not served on the petitioner either physically, through registered post or through e-mail of the petitioner, instead, the respondent has chosen to upload the same through the common GST portal under the column, "View Additional Notices' and hence, the petitioner has not filed reply or appeared before the respondent, however, the respondent, without even affording an opportunity of hearing to the petitioner, passed the impugned order.



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3.1 Therefore, it is submitted the impugned assessment order passed by the respondent suffers from violation of principles of natural justice and is liable to be aside. However, it is stated by the learned counsel for the petitioner that the petitioner is ready and willing to pay 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remands the matter back to the Authority concerned for fresh consideration and thus, prays for appropriate orders.

4. The learned Government Advocate (T) for the respondent-Department 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 all pre-intimation notice in DRC-01A, show cause notice and notice for personal hearing were not served on the petitioner either physically, through registered post or through e-mail of the petitioner, instead, uploaded



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through the common GST portal under the column, "View Additional Notices'. According to the petitioner, the petitioner was not aware of the issuance of the show cause notice issued through the GST Portal. 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.

5.1 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 notice, 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.



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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. 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 now come forward to deposit 25% of the disputed tax in the event the impugned order is set aside, to which course, the learned Government Advocate for the respondent is also agreeable, this Court is inclined to pass /issue the following orders/directions:-

i) The impugned order passed by the respondent dated 29.08.2023 is set aside.



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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 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 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 Petition are closed.

03.06.2025

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Index : yes/no

Neutral Citation : yes/no

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To

**THE ASSISTANT COMMISSIONER (ST)
HOSUR (NORTH)-II ASSESSMENT CIRCLE
HOSUR - 635 101.**



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Krishnan Ramasamy,J.,

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