IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.13490 of 2025
and
W.M.P.Nos.15132 & 15133 of 2025

M/s. Super Good Agrow Pvt Ltd.,
Represented by its Director,
Mr.B.Suresh
No.27/1, Habibullah Road,
T.Nagar, Chennai 600 017. ...Petitioner

Vs.

The State Tax Officer,
Pondy Bazaar Assessment Circle,
Central III, Chennai.
...Respondents

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 on the file of the Respondent and to quash the impugned assessment order dated 20.08.2024 bearing no.33AAQCS0449E1ZE/2019-20 Passed by the Respondent.

For Petitioner : Mr.J Ashish

For Respondent : Mr.C.Harsha Raj,
Special Government Pleader (tax)

Order

Mr.C.Harsha Raj, learned Special Government Pleader (tax), who takes notice on behalf of the respondent. With consent of the parties, 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 20.08.2024 passed by the respondent relating to the assessment year 2019-20.

3. The learned counsel for the petitioner would submit that, a show cause notice in Form DRC-01 dated 22.05.2024 was issued to the petitioner through GST common portal, followed by reminder notice dated 27.06.2024 along with an opportunity of personal hearing. However, the petitioner had neither filed its reply nor availed the opportunities of personal hearing. It is submitted by the learned counsel for the petitioner that neither the show cause notices nor the impugned order of assessment has been served on the petitioner by tender or sending it by RPAD, instead it had been uploaded in the GST Portal under the head "View Additional Notices" tab, thereby, the petitioner was unaware of the initiated proceedings and was thus unable to participate in the adjudication proceedings. It is also submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, they would be able to explain the alleged discrepancies.

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 order and remand the matter back to the Authority for fresh consideration. He would further submit that pursuant to the impugned order, that there is bank attachment and the same may be lifted, subject to the payment of 25% of the disputed tax. Hence, he prayed for appropriate directions.

4. Mr.C.Harsha Raj, learned Special Government Pleader (Tax) appearing 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 order with terms, by issuing the following directions:-

i) The impugned order dated 20.08.2024 passed by the respondent is 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.

vi) If there is any recovery by way of attachment of Bank account or garnishee proceedings, the same shall be lifted /withdrawn on complying with the above condition viz., payment of 25 % of the disputed taxes.

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

15.04.2025

jd
Index : yes/no
Neutral Citation : yes/no

To

The State Tax Officer,
Pondy Bazaar Assessment Circle,
Central III, Chennai.

Krishnan Ramasamy,J.,

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W.P.No.13490 of 2025

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