IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 16631 of 2025
AND
WMP NO. 18815 OF 2025,WMP NO. 18820 OF 2025

Tvl.Sri Sai Imports
Represented by its partner,
Mr. Gaddam Sujanreddy,
501, GNT Road, Near Nallaghu
Polytechnic, Puzhal, Chennai-600006.

Petitioner(s)

Vs

The Assistant Commissioner(ST),
Manali Assessment Circle,
No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road, Vepery, Chennai-600 003.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the records of the impugned order u/s.73 dated 19/12/2023 having reference ZD331223133256U passed by the respondent for the F.Y.2017-18, and quash the same as it was passed in violation of principles of natural justice.

For Petitioner(s): Mr.Anandh S

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

ORDER

This writ petition has been filed by the petitioner challenging the impugned assessment order dated 19.12.2023, relating to the Financial Year 2017-18.

2.Ms.P.Selvi, learned Government Advocate (Taxes), takes notice on behalf of the 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 petitioner closed his business and surrendered its GST registration as evidenced by the order for cancellation of registration dated 09.09.2020. But, the petitioner had uploaded the show cause notice dated

26.09.2023 in the GST Portal in “View Additional Notices and Orders” tab. Even the impugned order dated 19.12.2023 was also uploaded in the GST Portal after the cancellation of GST registration. He would further submit that the petitioner cannot access the GST poratl after the cancellation of GST registration and therefore, they were not aware of the proceedings initiated against them. However, he would submit that the petitioner is ready and willing to pay 10% of the disputed tax demand in respect of the impugned assessment period and prayed to set aside the impugned order directing the 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 Government Advocate appearing for the respondent would submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of 10% of the disputed tax demand by the petitioner in respect of the impugned assessment period, 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 Government Advocate appearing for the repondent and perused the materials available on record.

7.Considering the above submissions made by the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondent 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 since the petitioner's GST registration was cancelled 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, in certain cases, where the GST registration of the petitioner itself has been cancelled, the Officer should have applied his/her mind and explored the possibility of sending notices by way of RPAD to the address provided by the petitioner in the GST Registration Cancellation application. 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 the petitioner. Hence, this Court is inclined to set-aside the impugned order with terms, by issuing the following directions:-

(i) The order impugned herein is set aside on condition that the petitioner deposits 10% of the disputed tax amount in respect of the impugned assessment period, as agreed by the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(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.

10.With the above directions, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petition is closed.

03-06-2025

rst

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

To

The Assistant Commissioner(ST)
Manali Assessment Circle,
No.32, Integrated Commercial Taxes Office Complex,
Elephant Gate Bridge Road, Vepery, Chennai-600 003.

KRISHNAN RAMASAMY J.

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