IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 25.04.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.14279 of 2025
and
W.M.P.Nos.16069, 16070 and 16074 of 2025

Associated Building Constructions Madras Pvt Ltd
(Represented by its Director
Mrs. Sherene Mary George) No. 22 Spring Field
Jaganathan Road Nungambakkam Chennai
Tamilnadu – 600 034. ..Petitioner

Vs.

1. The State Tax Officer
(Also known as Commercial Tax officer)
Valluvarkottam Assessment Circle
No. 10 Palaniappa Building, Greams Road
Chennai 600 006.

2 The Deputy Commissioner (ST)
Chennai-Central III #1
Greams Road Chennai 600 006

3 The Branch Manager
Indian Bank 9 Valluvar Kottam High Road
Uthamar Gandhi Salai Chennai-600 034. ...Respondents

Prayer :-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the files of the first Respondent herein in the order Ref. No.

33AAACA7978G1ZK/2019-20 dated 25th October 2023 issued along with the summary of the order in form GST-DRC-07 vide reference no. ZD331024213938J dated 28th October 2024 for the tax period April 2019 to March 2020 quash the same.

For Petitioner : M/s.S.Vishnupriya
For Respondents 1 and 2 : Mrs.K.Vasanthamala
Government Advocate (T)

Order

Heard M/s.S.Vishnupriya learned counsel appearing for the petitioner and Mrs.K.Vasanthamala, learned Government Advocate (T) who takes notice on behalf of the respondents 1 and 2. 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 first Respondent dated 25.10.2023 issued along with the summary of the order in form GST-DRC-07 dated 28.10.2024 for the tax period April 2019 to March 2020 and to quash the same.

3. The learned counsel for the petitioner would submit that the show cause notice was uploaded in the GST notices tab, under the Additional Notices/Orders" tab, which was unknown to the petitioner and only when the respondent-GST officials informed the petitioner about the impugned proceeding during the third week of February, 2025, the petitioner came to know of the impugned order. Therefore, it is contended that the act of non-responding to the show cause notice and not participating in the assessment proceedings is neither wilful not wanton, but, purely owing to the fact that the petitioner was totally not aware of the show cause notice, however, the first respondent, without even affording of an opportunity of personal hearing, passed the impugned order.

3.1 Hence, the learned counsel for the petitioner contended that the impugned assessment order passed by the first 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 also 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 for fresh consideration and thus, prays for appropriate orders.

4. The learned Government Advocate (T) for the respondents 1 and 2 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 not directly served on the petitioner through physical mode of service but was only uploaded on the GST Portal Tab, under the 'Additional Notices/Orders'tab. 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.

6.1 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, 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 orders, as the same suffers from the violation of principles of natural justice. Thus, once the orders are 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 orders are set aside, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order passed by the first Respondent dated 25.10.2023 issued along with the summary of the order in form GST-DRC-07 dated 28.10.2024 for the tax period April 2019 to March 2020 is set aside.

ii) Consequently, the matter is remanded to the first 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 first 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.

25.04.2025

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Index : yes/no
Neutral Citation : yes/no

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Krishnan Ramasamy,J.,

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