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W.P.No.16549 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.16549 of 2025

and

W.M.P.Nos.18708 & 18709 of 2025

Tvl.Pandian Super Market
Represented by its Proprietor Saminadar Chinnapandian
No.39,Rajendra Prasad Road, Nehru Nagar,
Chrompet, Kancheepuram,
Tamil Nadu, 600044.

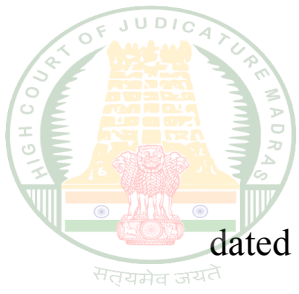
...Petitioner

Vs.

The State Tax Officer(ST),
Thirumullaivoyal Assessment Circle
Station:Door No.32, Room No.114, 1st Floor,
Tiruvallur Division, Integrated Commercial Taxes
Offices Building,
Elephant Gate Bridge road,
Vepery, Chennai- 600 003.

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India
praying for the issuance of a Writ of Certiorarified Mandamus to call for the
records relating to the impugned order under section 73 of the GST Act



W.P.No.16549 of 2025

dated 12.04.2024 vide Reference No.ZD330424098827Y in Form GST DRC-07 bearing GSTIN:33ACOPC71141ZA pertaining to FY.2018-19 issued by the respondent as arbitrary and illegal and quash the same and further direct the respondent to redo the adjudication in accordance with law after granting opportunity of personal hearing to the petitioner.

For Petitioner : Ms.B.Mitra

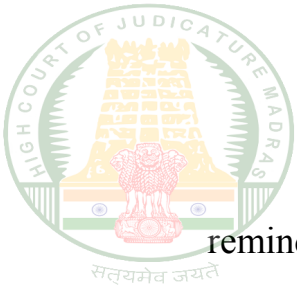
For Respondent : Ms.Amirthapoonkodi Dinakaran
Government Advocate (Taxes)

Order

Ms.Amirthapoonkodi Dinakaran, learned Government Advocate (Taxes), 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 dated 12.04.2024 passed by the respondent for the AY 2018-19 and to quash the same.

3. The learned counsel for the petitioner would submit that the respondent has issued a show cause notice on 28.12.2023, followed by



W.P.No.16549 of 2025

reminder notices dated 05.02.2024 and 08.02.2024 to the petitioner and the same was uploaded in the GST portal, without serving physical copy to the petitioner. Therefore, the petitioner was not aware of those notices and failed to file reply to those notices. Since the petitioner failed to file reply to the said show cause notice, the respondent has confirmed the proposals contained in the show cause notice and passed the present impugned order. Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order.

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.

4. The learned Government Advocate (Taxes) 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



W.P.No.16549 of 2025

be considered.

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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



W.P.No.16549 of 2025

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 passed by the respondent dated 12.04.2024 is set aside.



W.P.No.16549 of 2025

WEB COPY 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 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 clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.



W.P.No.16549 of 2025

8. With the above observations & directions, this Writ Petition is

disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

02.06.2025

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Index : yes/no

Neutral Citation : yes/no



W.P.No.16549 of 2025

WEB COPY

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W.P.No.16549 of 2025

Krishnan Ramasamy,J.,

arr

W.P.No.16549 of 2025

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