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W.P.No16754 . of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.16754 of 2025

and

W.M.P.Nos.18988 & 18990 of 2025

M/s.Arokiya Industries
Rep by its proprietor
Johnbosco Arokia Viveck
Periyar Salai, No.23 Anna nagar
Korukkupet, Chennaii 600 021.

...Petitioner

Vs.

THE STATE TAX OFFICER (FAC)
TONDIARPET ASSESSMENT CIRCLE
STATION : INTEGRATED COMMERCIAL TAXES BUILDING
CHENNAI NORTH DIVISION, NO.32
ELEPHANT GATE BRIDGE ROAD, CHENNAI-600 003.

...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call the Impugned Order dated 01-07-2024 in Original order no. GSTN : 33CNOPA0976L1ZR/ 2021-22 issued by the respondent and to quash the same as illegal and arbitrary.

For Petitioner : Mr.S.Prabakaran
For Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader (T)



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Order

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Heard Mr.S.Prabakaran learned counsel appearing for the petitioner and Mr.T.N.C.Kaushik, learned Additional Government Pleader (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 01-07-2024 and to quash the same.

3. The learned counsel appearing for the petitioner would submit that the respondent has issued a show cause notice through the common GST portal, due to oversight, the same was not noticed by the petitioner, and further, the petitioner has not received any registered notice or phone call or intimation from the respondent-Department, therefore, 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 orders and remands the matter back to the Authority concerned for fresh consideration and thus, prays for appropriate orders.

4. The learned Additional Government Pleader (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 the show cause notice was uploaded on the GST common Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notice issued through the GST Portal. Further, the original of the said show



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cause notice was not furnished to the petitioner through registered post. 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 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. Thus, when there is no response from the tax payer to the notice sent



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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.

6.1 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 Additional Government Pleader is also agreeable, this Court is inclined to pass /issue the following orders/directions:-

i) The impugned order passed by the respondent dated 01-07-2024 is set aside.

ii) Consequently, the matter is remanded to the respondent for fresh consideration.



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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.

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Index : yes/no
Neutral Citation : yes/no



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Krishnan Ramasamy,J.,

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