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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.04.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.15281 & 15287 of 2025
& W.M.P.Nos.17256, 17258, 17268 & 17271 of 2025

Ero Techno Systems,
309, Ragupathinaiken Palayam,
Poondurai Main Road,
Erode 638 002,
Rep by its Partner, A.Tharunya

... Petitioner in both petitions

Vs.

Deputy State Tax Officer-2,
Kodumudi Assessment Circle,
Commercial Taxes Building,
North Pradhakhanama Road,
Karur 639 001

... Respondents in both petitions

Common Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the impugned order bearing Ref.No.ZD330624340430U dated 27.06.2024 and consequent rejection of rectification request vide order GSTIN 33AAIFE2927N1Z8/2020-21 dated 26.02.2025 & Reference No.ZD33

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1024224293Y dated 29/10/2024 passed by the respondent and quash the same.

For Petitioner
in both petitions : Mr.T.R.Ramesh

For Respondent
in both petitions : Ms.Amirta Poonkodi Dinakaran,
Government Advocate

COMMON ORDER

These writ petitions have been filed challenging the impugned orders dated 27.06.2024 & 29.10.2024 passed by the respondent.

2. Ms.Amirta Poonkodi Dinakaran, learned Government Advocate, takes notice on behalf of the respondent in both cases. By consent of the parties, the main writ petitions are taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in these cases, initially, the show cause notice dated 15.12.2023 was issued by the respondent, for which, the petitioner's Accountant filed the due reply.

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Thereafter, the said Accountant had failed to view the personal hearing notices, which were uploaded in the GST common portal, they failed to appear before the respondent. Under these circumstances, the impugned orders came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Hence, these petitions have been filed.

4. Further, he would submit that the petitioner is willing to pay 25% of the disputed tax amount to the respondent in each cases. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned orders.

5. On the other hand, the learned Government Advocate appearing for the respondent would submit that the respondent had uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, she has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned orders. Therefore, she requested this Court to remit

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the matters back to the respondent, subject to the payment of 25% of the disputed tax amount by the petitioner.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and also perused the materials available on record.

7. In the cases on hand, it is evident that the show cause notice and personal hearing notice were uploaded on the GST Portal Tab. According to the petitioner, he was not aware of the issuance of the said personal hearing notice issued through the GST Portal and the original of the said notice was not furnished to them. In such circumstances, this Court is of the view that the impugned assessment orders 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, 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

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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.

9. 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. Therefore, this Court finds that there is a lack of opportunities being provided to serve the notices/orders etc., effectively to the petitioner.

10. Further, it was submitted by the learned counsel for the petitioner that the petitioner is willing to pay 25% of the disputed tax

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amount to the respondent in each case. In such view of the matter, this Court is inclined to set aside the impugned orders dated 27.06.2024 & 29.10.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned orders dated 27.06.2024 & 29.10.2024 are set aside and the matters are remanded to the respondent for fresh consideration on condition that the petitioner shall pay 25% of disputed tax amount to the respondent, in each case, within a period of four weeks from the date of receipt of a copy of this order. The setting aside of the impugned orders will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of payment of amount as stated above.

(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.

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11. With the above directions, these writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

29.04.2025

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

To

Deputy State Tax Officer-2,
Kodumudi Assessment Circle,
Commercial Taxes Building,
North Pradhakhanama Road,
Karur 639 001

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