WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-04-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 14831 of 2025
AND
WMP NO. 16738 OF 2025,WMP NO. 16748 OF 2025

Ms.Shanmugam,
Rep. by its Proprietor E.Shanmugam,
No.2, Gangaiamman Kovil Street,
Kalivanthapattu, Kairampedu Post,
Chengalpattu 603202.

Petitioner(s)

Vs

The Deputy State Tax Officer 1,
Chengalpattu Assessment Circle,
No.16A, First Floor, First Main Road,
Anna Nagar, Chengalpattu - 603 001.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records of the impugned Order dated 29.04.2024 bearing reference GSTIN No.33ASGPS8762B2ZL along with DRC-07 Summary of the Order dated 29.04.2024 bearing Order No.

WEB COPY

33ASGPS8762B2ZL/2018-2019 of the respondent and to quash the same as arbitrary, illegal and without jurisdiction.

For Petitioner(s): Mr.E.Sathiyaraj

For Respondent(s): Mr.C.Harsha Raj,
Special Government Pleader (t)

ORDER

This writ petition has been filed by the petitioner challenging the impugned assessment order dated 29.04.2024 passed by the respondent for the Financial Year 2018-19.

2.Mr.C.Harsha Raj, learned Special Government Pleader (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 have not received any physical copy of the show

WEB COPY

cause notice and also personal hearing notice. The show cause notice dated 11.01.2024 was uploaded in the GST Portal tab in view additional notices column and the petitioner had no ocassion to open the GST Portal. Even the impugned order dated 29.04.2024 was also uploaded in the view additional notices column which is violation of principle of natural justice. He would further submit that the petitioner has remitted the entire disputed demand 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 Special Government Pleader appearing for the respondent would submit that if the Court feels it appropriate and it is a fit case for re-consideration, appropriate orders may be passed.

6.Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the repondent and perused the materials available on record.

https://www.mhc.tn.gov.in/judis

WEB COPY

7.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.

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 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

WEB COPY

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 and the matter is remanded back to the respondent for fresh consideration.

WEB COPY

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks from the date of receipt of a copy of this order.

(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 petitions are closed.

24-04-2025

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

rst

WEB COPY

To

The Deputy State Tax Officer 1
Chengalpattu Assessment Circle,
No.16A, First Floor, First Main Road,
Anna Nagar, Chengalpattu - 603 001.

WEB COPY

KRISHNAN RAMASAMY J.

rst

WP No. 14831 of 2025

AND

WMP NO. 16738 OF 2025,

WMP NO. 16748 OF 2025

24-04-2025