IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

**W.P.Nos.16908 & 16912 of 2025**
**and**
**W.M.P.Nos.19182, 19183, 19196 & 19208 of 2025**

M/s.SKM Traders,
Represented by its Proprietor
Subramaniam Mohanraj
No.34, Saminathapuram,
Gobichettipalayam,
Erode - 638 476. ...Petitioner
(in both W.Ps)

Vs.

State Tax Officer
Gobichettipalayam Assessment Circle,
No.54, Bharathi Street,
Gobichettipalayam - 638 452. ...Respondents
(in both W.Ps)

**Common Prayer :** Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating to the impugned orders bearing Reference Number GSTIN/33AOMPM1492C2Z2/2019-2020 dated 12.08.2024 and 28.08.2024 passed by the respondent and quash the same.

For Petitioner (in both W.Ps) : Ms.K.Aarthy

For Respondent (in both W.Ps) : Ms.Amirta Poonkodi Dinakaran
Government Advocate (Tax)

**Common Order**

Ms.Amirta Poonkodi Dinakaran, learned Government Advocate (Tax), who takes notice on behalf of the respondent. With consent, the main Writ Petitions are taken up for final disposal at the stage of admission itself.

**2.** The challenge in these Writ Petitions is to the orders dated 12.08.2024 and 28.08.2024 passed by the respondent for the AY 2019-2020 and to quash the same.

**3.** The learned counsel for the petitioner would submit that the respondent has issued show cause notices in Form DRC-01 on 24.05.2024 and in Form DRC-01 on 31.05.2024 stating that there is a mismatch between ITC reflecting in GSTR-2A and ITC availed in GSTR-3B during the period 2019-2020. The petitioner was not aware of those notices and file reply to those notices. Since the petitioner failed to file reply to the said show cause notices, the respondent has confirmed the proposals contained in the show cause notices and passed the present impugned orders. Therefore, the learned counsel would submit that the impugned orders suffer from violation of principles of natural justice and are liable to be aside, as the petitioner has not been heard before passing the impugned orders.

**3.1.** It is also submitted by the learned counsel for the petitioner that the petitioner has already paid a sum of Rs.1,29,000/- and is ready and willing to deposit 10% of the disputed tax, in the event, this Court is inclined to set aside the impugned orders and remand the matter back to the Authority for fresh consideration. Hence, she prayed for appropriate directions.

**4.** The learned Government Advocate (Tax) for the respondent fairly submitted that since the petitioner has voluntarily come forward to deposit 10% 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 impugned show cause notices were uploaded on the GST Portal Tab.

According to the petitioner, the petitioner was not aware of the issuance of the show cause notices issued through the GST Portal and the original of the said show cause notices were 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 notices.

**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 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 orders with terms, by issuing the following directions:-

i) The impugned orders passed by the respondent dated 12.08.2024 and 28.08.2024 are set aside.

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

iii) The petitioner has already paid a sum of Rs.1,29,000/- and after deducting the same, the petitioner is granted liberty to deposit 10% of the disputed tax, which the petitioner themselves had voluntarily came forward to make such payment, within a period of four 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.

**8.** With the above observations & directions, these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

**11.06.2025**

Index : yes/no
Neutral Citation : yes/no

sri

To

State Tax Officer
Gobichettipalayam Assessment Circle,
No.54, Bharathi Street,
Gobichettipalayam - 638 452.

**Krishnan Ramasamy,J.,**

sri

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