IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.04.2025

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.13986 of 20255
and
W.M.P.Nos.15749 and 15750 of 2025

Veeraprakasham Rajamanickam
Proprietor,
IDEA Property Developers,
98, Mission Street,
Tiruppur. ... Petitioner

..Vs..

The Assistant Commissioner,
Palladam-I, Tiruppur-III,
Tiruppur. ... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records on the files on the respondent in Reference no.ZD330824080538 dated 10.08.24, relating to the year 2019-20, and quash the same as without jurisdiction and illegal.

For Petitioner : Mr.V.Srikanth

For Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader (Taxes)

ORDER

Today, when the matter is taken up for hearing, the learned counsel for the petitioner had sought permission of this Court to withdraw this writ petition. He has also made an endorsement to that effect.

2. In view of the submission made by the learned counsel for the petitioner and also in view of the endorsement made, this writ petition is dismissed as withdrawn. No costs. Consequently, connected Miscellaneous Petitions are closed.

21.04.2025

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

To

The Assistant Commissioner,
Palladam-I, Tiruppur-III,
Tiruppur.

Krishnan Ramasamy,J.,

arr

W.P.No.13986 of 20255

21.04.2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 13986 of 2025
AND
WMP NO. 15750 OF 2025,WMP NO. 15749 OF 2025

Veeraprakasham Rajamanickam,
Proprietor, Idea Property Developers,
98 Mission Street, Tiruppur.

Petitioner(s)

Vs

The Assistant Commissioner
Palladam -1, Tiruppur III, Tiruppur.

Respondent(s)

For Petitioner(s) : Mr.V.Srikanth

For Respondent(s) : Mr.T.N.C.Kaushik
Addl. Govt. Pleader (taxes)

ORDER

Today, the matter is listed under the caption for "Being Mentioned", at the instance of the learned counsel for the petitioner.

2.Learned counsel for the petitioner would submit that when the matter came up for hearing on 21.04.2025, this Court disposed of the present case by setting aside the impugned assessment order dated 10.08.2024. However, inadvertently, it has been recorded as the present case has been dismissed as withdrawn. Hence, he prayed to rectify the said inadvertent error and issue fresh order copy.

3.Learned Additional Government Pleader appearing for the respondent acceded the submissions made by the learned counsel for the petitioner.

4.Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondent.

5.Considering the submissions made by the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondent, the order passed by this Court on 21.04.2025 is hereby recalled and the following order is substituted in the place of aforesaid order:-

"This writ petition has been filed by the petitioner challenging the impugned assessment order dated 10.08.2024, relating to the Financial Year 2019-2020.

2.Mr.T.N.C.Kaushik, learned Additional 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 cause notice and also personal hearing notice. The show cause notice dated 24.05.2024 was uploaded in the GST Portal tab and the petitioner had no ocassion to open the

GST Portal. Even the impugned order dated 10.08.2024 was also uploaded in the GST Portal, which is violation of principle of natural justice. He would further submit that the petitioner is ready and willing to pay 25% of the disputed tax demand in respect of the impugned assessment period 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 Additional Government Pleader appearing for the respondent would submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of 25% of the disputed tax demand by the petitioner in respect of the impugned assessment period, if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.

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

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 *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 on condition that the petitioner deposits 25% of the disputed tax amount in respect of the impugned assessment period, as agreed by the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(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."

6.Hence, the Registry is directed to substitute the aforesaid order in the order dated 21.04.2025 and issue fresh order copy to the parties concerned.

02-06-2025

rst

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

To

The Assistant Commissioner
Palladam -1, Tiruppur III, Tiruppur.

KRISHNAN RAMASAMY J.

rst

WP No. 13986 of 2025

AND

WMP NO. 15750 OF 2025,

WMP NO. 15749 OF 2025

02-06-2025