IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.14327 of 2025
and
W.M.P.Nos.16121 & 16124 of 2025

Tvl.Rangarajapuram Consumers Co-operative Society Ltd
Represented by its Administrator,
Tmt.R.ThiyagaThilagam,
33, Viswanathapuram, 2nd Street,
Kodambakkam, Chennai,
Tamil Nadu-600024. ...Petitioner

Vs.

The Deputy State Tax Officer-II,
(also known as Deputy Commercial Tax Officer),
Kodambakam Assessment Circle,
Station:No.1, 4th Floor, PAPJM Annex Building,
Greams Road, Chennai-06. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the files of the Respondent herein in GSTIN:33AAFFR0356M1Z5/2019-20 dated 24.08.2024 and the connected order under Section 73 dated 27.08.2024 and the summary of the order in Form GST DRC-07 dated

27.08.2024 issued in Reference No.ZD330824246180M and quash the same.

For Petitioner : Mr.Jayaprathap A N R

For Respondent : Mrs.K.Vasanthamala
Government Advocate (Taxes)

Order

Mrs.K.Vasanthamala, learned Government Advocate (Taxes), 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 orders dated 24.08.2024 and 27.08.2024 and to quash the same.

3. The learned counsel for the petitioner would submit that thet respondent issued show cause notice dated 23.05.2024 followed by reminder notices dated 04.07.2024, 14.08.2024 and 23.08.2024 by uploading the same in the GST portal without serving physical copy of the same to the petitioner. Since the petitioner failed to file its reply to the said show cause notice, the respondent has confirmed the proposals contained in the show cause notice and passed the present impugned order. The petitioner came to know of the same only after the recovery made by the respondent from the Electronic Cash Ledger. Therefore, the learned counsel would submit that the impugned orders suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order.

3.1. It is also submitted by the learned counsel for the petitioner that the respondent has recovered a sum of Rs.6,11,946/- from the Petitioner's Electronic Credit Ledger.

4. The learned Government Advocate (Taxes) for the first respondent fairly submitted that the aforesaid amount towards disputed tax liability has been recovered from the petitioner's Electronic Credit Ledger.

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 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.

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 24.08.2024 is set aside.

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

iii) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

iv) 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, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

17.04.2025

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Index : yes/no
Neutral Citation : yes/no

To

The Deputy State Tax Officer-II,
(also known as Deputy Commercial Tax Officer),
Kodambakam Assessment Circle,
Station:No.1, 4th Floor, PAPJM Annex Building,
Greams Road, Chennai-06.

Krishnan Ramasamy,J.,

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W.P.No.14327 of 2025

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