IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.04.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.14515 of 2025
and
W.M.P.Nos.16404 & 16408 of 2025

CHINNAMANI GANESAN
SOLE PROPRIETOR OF SRI GANESH TIMBER MERCHANT
14B LINK ROAD PANRUTI CUDDALORE
TAMILNADU 607106

..Petitioner

Vs

THE DEPUTY STATE TAX OFFICER – 1
O/o THE STATE TAX OFFICER (ST)
PANRUTI TOWN. ...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 records leading to the issuance of assessment order bearing reference no. GSTIN 33AUWPC6162F1ZK/2018-19 dated 23.04.2024 passed by the Respondent herein and quash the same.

For Petitioner : M/s.B.Chandrika
For Respondent : Mr.C.Harsha Raj
Special Government Pleader (T)

<u>Order</u>

Heard M/s.B.Chandrika, learned counsel appearing for the petitioner and Mr.C.Harsha Raj, learned Special Government Pleader (T) who 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 order passed by the respondent dated 23.04.2024 and to quash the same.

3. The learned counsel for the petitioner would submit that a show cause notice and other allied communications were uploaded on the GST on-line portal, under the different column "View Additional notices/orders", which neither the petitioner nor their Consultant were aware, and hence, the petitioner failed to file reply to such show cause notice and appear before the respondent, however, the respondent, without even affording an opportunity of hearing to the petitioner, passed the impugned order confirming the proposals contained in the show cause notice and uploaded the said order on the Gst On-line Portal, which even was unknown to the petitioner and only when the respondent informed the petitioner about the impugned proceeding, the petitioner came to know of the impugned proceedings and challenging the same, the present Writ Petition is filed.

3.1 Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and is liable to be aside. It is further submitted that the respondent, in furtherance of the impugned proceedings initiated recovery proceeding against the petitioner, whereby, a sum of Rs.1,80,836- has been recovered. Therefore, the learned counsel prays for setting aside the impugned order without imposing any condition on the petitioner.

4. The learned Special Government Pleader for the respondent would submit that since it is stated that a sum of Rs.1,80,836/- has been recovered from the petitioner, subject to the verification of such statement, the impugned order may be set aside and the matter may be remanded to the respondent for fresh consideration.

5. I have given due consideration to the submissions made on either aside and perused the materials available on record.

6. 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, as neither the petitioner nor their Consultant who used to file GST returns was aware. Further, the original of the said show cause notice was not furnished to the petitioner in person. 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.

6.1 No doubt, sending notice by uploading in portal is a sufficient service, but, the Officer who finds no response from the petitioner to the show cause notices, instead of sending repeated reminders, 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, the service of notice will not be deemed to 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 would 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.

6.2 Therefore, this Court is inclined to set aside the impugned order, as the same suffers from the violation of principles of natural justice. Further, taking into consideration of the fact that the respondent, in pursuance of the impugned proceeding, already recovered a sum of Rs.1,80,836/-from the petitioner, this Court is not inclined to impose any condition requiring the petitioner to make any deposit.

6.3 Accordingly, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order passed by the respondent dated 23.04.2024 is set aside.

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

iii) The petitioner is directed to file a reply along with supportive documents within a period of two weeks from the date of receipt of a copy of this order.

and

iv) Thereupon, the respondent is directed to consider the reply and shall issue a 14 clear days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

24.04.2025

sd

Index : yes/no
Neutral Citation : yes/no

To

THE DEPUTY STATE TAX OFFICER – 1
O/o THE STATE TAX OFFICER (ST)
PANRUTI TOWN.

Krishnan Ramasamy,J.,

sd

W.P.No.14515 of 2025

24.04.2025