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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 19803 of 2025
and
WMP Nos.22255 & 22256 of 2025

1. ZAINA INTERNATIONAL
Represented by its Proprietor
Mr .ODIANDIRAM ABDUL
MOHAMMED TANVEER SUHAIB
No.1283 C, Kattumani Street
Vaniyambadi Tirupathur,
Tamilnadu 635 751.

Petitioner(s)

Vs

1. The Commercial Tax Officer ,
VEPERY NORTH III ,
CHENNAI NORTH,
Station No. 1 (PAPJM) Annex Building,
Room No. A-110 First Floor,
Greams Road, Chennai 600 006.

Respondent(s)

PRAYER : This writ petition has been filed under Article 226 of the Constitution of India to issue a writ of certiorari to call for the records of the respondent Respondent order in Reference Number ZD33O824222622M / 2019-20 dated. 24.08.2024 and quash the same as arbitrary, illegal and pass such orders as they deem fit.

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For Petitioner(s): Mr.S.Ramanan

For Respondent(s): Mr.V.Prasanth Kiran,
Government Advocate (T)

ORDER

The present Writ Petition is filed challenging the order dated 24.08.2024 passed by the respondent, relating to the assessment year 2019-20.

2. Mr.V.Prasanth Kiran, learned Government Advocate (Tax) takes notice on behalf of the respondent. By consent of the parties, the main Writ Petition is taken up for disposal for final disposal at the stage of admission.

3. The learned counsel for the petitioner submitted that the petitioner is engaged in the business of manufacturing & Trading of leather garments and allied products and is registered under the Goods and Service Taxes Act, 2017. The respondent issued a summary of show cause notice under Section 61 of the Act regarding scrutiny of returns, followed by three reminders specifying dates for a personal hearing. However, these notices went unnoticed due to the petitioner's factory being shifted from Chennai to Vaniyambadi, despite the documents being readily available. As the petitioner did not respond to the show

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cause notice, the respondent confirmed the proposals therein and passed the present impugned order. The impugned order 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.

4. It is also submitted by the learned counsel for the petitioner that the petitioner is ready and willing to deposit 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remand the matter back to the Authority for fresh consideration.

5. The learned Government Advocate (T) for the respondent fairly submitted that since the petitioner has voluntarily come forward to deposit 25% of the disputed tax, the prayer sought for by the petitioner may be considered.

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 and the original of the said show cause notice was not furnished to them. In such circumstances, this Court is of the view that

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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.

7. 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,

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preferably by way of RPAD, which would ultimately achieve the object of the GST Act.

8. 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 order with terms, by issuing the following directions:-

i) The impugned order passed by the respondent dated 24.08.2024 is set aside.

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

iii) The petitioner is granted liberty to deposit 25% of the disputed tax, which the petitioner themselves had voluntarily came forward to make such payment, within a period of two 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.

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9. With the above observations & directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

04-06-2025

mrp

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

1.The Commercial Tax Officer
VEPERY NORTH III CHENNAI NORTH
Vepery North Iii Chenna North Station No. 1 Papjm Annex Buyilding Room No. A 110 First Floor, Greams Road, Chennai 600 006.

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KRISHNAN RAMASAMY J.

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