



W.P.No.15386 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.15386 of 2025

and

W.M.P.Nos.17404 & 17405 of 2025

M/s. Balaji Watch House,
Partnership Firm.
Rep. By its Mr.G.K.Venkateshwaran

...Petitioner

Vs.

The Commercial Tax Officer,
State Tax Officer, Erode, 1
Brough Road, Erode – 638 001.

...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the Impugned summary order under Section 73 of the TNGST Act 2017 in FORM GST DRC - 07 vide Ref. No. ZD330424188569X dated 24.04.2024 directing petitioner to pay the tax of Rs. 5,23,384/- along with 10% percent penalty levied thereupon to a sum of Rs.52,338/- and Impugned Detail order dated 24.04.2024 passed by the Respondent Under Section 73 of the GST Act 2017 and quash the same as arbitrary against the principles of natural justice and total inconformity with the provisions of the GST ACT 2017 and consequently direct the respondent to drop the demand proceedings initiated by the respondent.



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For Petitioner : M/S. R.Reshma
For Respondent : Ms.P.Selvi
Government Advocate (T)

Order

Heard M/S. R.Reshma learned counsel appearing for the petitioner and Ms.P.Selvi, learned Government Advocate (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 24.04.2024 along with Detailed order dated 24.04.2024 Under Section 73 of the GST Act 2017 and quash the same, and consequently, to direct the respondent to drop the demand proceedings initiated by the respondent

3. The learned counsel for the petitioner would submit that both the show cause notice dated 15.02.2024, and the impugned order dated 24.02.2024, have been merely uploaded in the GST portal and not served on the petitioner by any other mode of service, therefore, there has been no



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proper service of show cause notice, and therefore, the impugned assessment order passed by the respondent suffers from violation of principles of natural justice and is liable to be aside. However, it is stated by the learned counsel for the petitioner that the petitioner is also ready and willing to pay 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned orders and remands the matter back to the Authority for fresh consideration and thus, prays for appropriate orders.

4. 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.

5. I have given due considerations to the submissions made on either side 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



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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. Further, the original of the said show cause notice was not furnished to the petitioner. 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.

6.1 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



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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 orders, as the same suffers from the violation of principles of natural justice. Thus, once the order is passed in violation of principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit, however, considering the fact that the petitioner has come forward to deposit 25% of the disputed tax in the event the impugned order is set aside, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order dated 24.04.2024 along with Detailed order dated 24.04.2024 passed by the respondent under Section 73 of the GST Act 2017 are set aside.



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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 have voluntarily come 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 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 Petition is closed.

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Index : yes/no

Neutral Citation : yes/no

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WEB COPY To

The Commercial Tax Officer,
State Tax Officer, Erode, 1
Brough Road, Erode – 638 001.



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Krishnan Ramasamy,J.,

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