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W.P.No.14901 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.04.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.14901 of 2025
& W.M.P.Nos.16802 & 16804 of 2025

M/s.Apis India Limited,
Rep by its Authorised Signatory Prateek Agarwal,
No.1/109 C Nallakenuru Thottam Pattanam Road,
Nadaupalayam, Peedampalli PO, Coimbatore

... Petitioner

Vs.

1.Deputy Commissioner (ST),
GST Appeals State Integrated New Commercial Taxes Building,
Erode, Tamil Nadu

2.Assistant Commissioner (ST),
Palladam II Assessment Circle,
Tiruppur Zone III, Commercial Taxes Building,
Tiruppur, Tamil Nadu 641 601

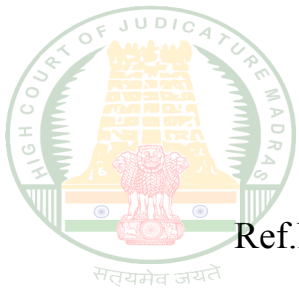
3.Commercial Tax Officer,
Palladam II Assessment Circle,
Tiruppur Zone III, Commercial Taxes Building,
Tiruppur , Tamil Nadu 641 601

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorarified Mandamus, calling for the
records of the 3rd respondents in the impugned orders passed vide

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Ref.No.ZD3308241626556 dated 20.08.2024 by the 3rd respondent and consequential rejection acknowledgement vide Ref.No.ZD3304250268 36D dated 03.04.2025 passed by the 1st respondent and quash the same and direct the 3rd respondent to consider the mater afresh by granting sufficient opportunity to the petitioner.

For Petitioner : Ms.Sweety L

For Respondent : Ms.P.Selvi,
Government Advocate

ORDER

This writ petition has been filed challenging the impugned assessment order dated 20.08.2024 and the impugned rejection order dated 03.04.2025 passed by the respondents.

2. Ms.P.Selvi, learned Government Advocate, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.



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3. The learned counsel for the petitioner would submit that in this case, all notices/communications were uploaded by the respondent under the “View Additional Notices and Orders” column in the GST common portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the impugned assessment order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Aggrieved over the said assessment order, an appeal was preferred by the petitioner, however, the said appeal was rejected by the respondent on the aspect of limitation vide order dated 03.04.2025. Hence, this petition has been filed.

4. Further, she would submit that the petitioner has already paid 10% towards statutory pre-deposit while filing the appeal and now, he is willing to pay remaining 15% of the disputed tax amount to the respondent. Hence, she requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned order.



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5. On the other hand, the learned Government Advocate appearing for the respondent would submit that the respondent had uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, she has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, she requested this Court to remit the matter back to the 2nd respondent, subject to the payment of remaining 15% of the disputed tax amount by the petitioner.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and also perused the materials available on record.

7. In the case on hand, it is evident that the show cause notice was uploaded on the GST Portal Tab. According to the petitioner, he was not aware of the issuance of the said 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

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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.

9. 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



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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. Therefore, this Court finds that there is a lack of opportunities being provided to serve the notices/orders etc., effectively to the petitioner.

10. Further, it was submitted by the learned counsel for the petitioner that the petitioner has already paid 10% towards statutory pre-deposit while filing the appeal and now, he is willing to pay remaining 15% of the disputed tax amount to the respondent. In such view of the matter, this Court is inclined to quash the rejection order dated 03.04.2025 and set aside the impugned order dated 20.08.2024 passed by the 3rd respondent. Accordingly, this Court passes the following order:-

(i) The impugned rejection order dated 03.04.2025 is hereby quashed.

(ii) The impugned assessment order dated 20.08.2024 is set aside and the matter is remanded to the 3rd respondent for fresh consideration on condition that the petitioner shall pay 15% of disputed tax amount



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to the respondent within a period of four weeks from the date of receipt of a copy of this order. The setting aside of the impugned order will take effect from the date of payment of the said amount.

(iii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of payment of amount as stated above.

(iv) 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.

(v) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment made on the bank account of the petitioner cannot survive any longer and hence, it is to be lifted. As a sequel, the respondent is directed to instruct the concern Bank to release the attachment, and de-freeze the bank account of the petitioner, immediately upon the production of a copy of this order.



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11. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

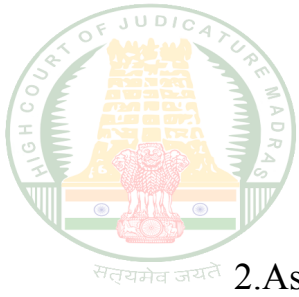
29.04.2025

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

To

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GST Appeals State Integrated New Commercial Taxes Building,
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