IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.14597 of 2025
and
W.M.P.Nos.16480 and 16483 of 2024

M/s.AL. REEF RESTAURANT,
rep. by its Prop.Mr.Hasim Puthiyadathil
GSTIN:33AABPH2137C1ZK
No.89, Iyappa Chetty Street,
Chennai-600001. ...Petitioner

Vs.

The Assistant Commissioner (ST),
Muthialpet Assessment Circle,
Block No.32, Elephant Gate Bridge Road,
Chennai-03. ...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 the records in the file of the impugned order issued by the respondent electronically in Common Portal vide FORM GST DRC-07 Ref.No.ZD330924179970X dated 26.09.2024 and to quash the same with consequential relief to direct the respondent to defreeze the bank current account no.01662560008603 of M/s.Reef Residency maintained with HDFC

Bank, Parrys Corner Branch and refund the amount of Rs.55,660/- recovered from the bank account.

For Petitioner	:	Ms.Akila S
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 order dated 26.09.2024 passed by the respondent and to quash the same and consequently direct the respondent to defreeze the bank current account no.01662560008603 of M/s.Reef Residency maintained with HDFC Bank, Parrys Corner Branch and refund the amount of Rs.55,660/- recovered from the bank account.

3. The learned counsel for the petitioner would submit that GST registration of the petitioner was cancelled on 03.05.2021. Subsequently, the respondent issued a show cause notice to the petitioner on 12.03.2024 followed by reminder dated 22.07.2024. Since, the aforesaid notices were uploaded in the GST portal without serving them through physical mode, petitioner was not aware of the same and hence failed to file its reply to the show cause notice. Since the petitioner failed to file 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 and the same was also uploaded in the GST portal. Subsequently, the petitioner's bank account was attached, pursuant to which a sum of Rs.55,660/- was recovered from the petitioner's bank account. Further, the learned counsel would submit that 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. She therefore prays to set aside the same.

4. The learned Government Advocate (Taxes) for the respondent fairly agreed that aforesaid amount has been recovered from the petitioner's bank account and submitted that the prayer sought for by the petitioner may be considered.

5. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the show cause notice was uploaded on the GST Portal Tab. According to the petitioner, since the petitioner's registration was cancelled the petitioner has no occassion to view the notices uploaded in the GST portal and the original of the same were 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 order with terms, by issuing the following directions:-

i) The impugned order passed by the respondent dated 26.09.2024 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.

vi) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment, if any, 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 concerned bank to defreeze the bank account of the petitioner, forthwith, on production of proof of payment of Rs.55,660/- along with a copy of this order.

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

24.04.2025

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Index : yes/no
Neutral Citation : yes/no

Krishnan Ramasamy,J.,

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To

The Assistant Commissioner (ST),
Muthialpet Assessment Circle,
Block No.32, Elephant Gate Bridge Road,
Chennai-03.

W.P.No.14597 of 2025

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