



W.P.No.15578 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.15578 of 2025

and

W.M.P.Nos.17621 & 17625 of 2025

M/s.United Foods
rep. by its Partner Imran Kutchhi
57/3 1st Floor Bogipattarai Road
Bangalore Road Vellore - 632 004.

...Petitioner

Vs.

1 THE DEPUTY STATE TAX OFFICER-2
VELLORE (NORTH) VELLORE.

2 The Manager M/s Axis Bank
Rub Plaza Tumkur Road Yeshwanthpur
Bangalore 56002

..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 of the first respondent in his proceeding in Reference No.ZD330824212173R quash the order dated 23.08.2024 passed therein for the tax period April 2019 to March 2020.



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For Petitioner : Mr.P.V.Sudakar

For Respondent-1 : Mrs.K.Vasanthamala
Government Advocate (T)

Order

Heard Mr.P.V.Sudakar learned counsel appearing for the petitioner and Mrs.K.Vasanthamala learned Government Advocate (T) who takes notice on behalf of the respondent No.1. 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 first respondent dated 23.08.2024 and to quash the same.

3. The learned counsel for the petitioner would submit that both the show cause notice dated 22.05.2024 and the impugned order dated 23.08.2024 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 proper service of show cause notice, and therefore, the impugned assessment order passed by the first respondent suffers from violation of principles of natural justice and is liable to be aside. Further, it is contended



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that the petitioner, upon coming to know of the impugned order took steps to file an Appeal by depositing 10% of the disputed tax, however, since the said Appeal has been filed beyond the statutory period, the same has not been entertained. 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 order dated 23.08.2024 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 first respondent fairly submitted that since the petitioner has voluntarily come forward to deposit 25% of the disputed tax in toto, 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.



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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. 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



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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. 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 already deposited 10% of the tax amount at the time of filing Appeal and has now come forward to deposit 15% of the disputed tax in the event the impugned order is set aside, this Court is inclined to pass the following orders/directions:-



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i) The impugned order dated 23.08.2024 passed by the first respondent is set aside.

ii) Consequently, the matter is remanded to the first 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. In case, the petitioner has already deposit 10% of the disputed tax at the time of filing Appeal against the impugned order, the petitioner is at liberty to deduct the said 10% and shall pay the remaining 15% of the disputed tax within the time as stipulated by this Court.

iv) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

v) Thereupon, the first 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.

vi) So far as the bank attachment order is concerned, respondent-Department, upon verification of the proof with regard to the payment of 25% made by the petitioner in toto, is directed to issue appropriate direction



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on the petitioner's banker towards de-freezure of the petitioner's bank account forthwith and permit the petitioner to operate the bank account.

7. In the result, the Writ Petition is allowed on the aforesaid terms.

No costs. Consequently, connected Miscellaneous Petition are closed.

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Index : yes/no

Neutral Citation : yes/no

To

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Krishnan Ramasamy,J.,

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