IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2025

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.17092 of 2025
and
W.M.P.No.19381 of 2025

Tvl.Priya Safety Wears,
Rep. by its Proprietor Priyatharsini Ramesh,
W/o.Ramesh,
No.365A, Erikkarai 2nd Street,
Moongambikai Nagar Main Road,
Singara Thottam, Vandalur,
Chennai, Tamil Nadu 600 048. ...Petitioner

Vs.

1.The Appellate Deputy Commissioner (ST)(GST),
No.1, Greams Road,
Commercial Taxes Offices,
Chennai - 600 006.

2.The Deputy Commercial Tax Officer,
Thirukazhukundram,
Chengalpattu - 603 104. ...Respondents

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 and quash the order of assessment in DRC-07 bearing Ref No. ZD330224048392P in GSTIN.33CFRPP7589D1ZS/2017-18 dated 08.02.2024 passed by the second respondent and consequently direct the first

respondent to condone 269 days delay in filing the appeal beyond the statutory period and admit the appeal.
(PRAYER AMENDED VIDE ORDER DATED 10.07.2025 MADE IN W.M.P.NO.24699 OF 2025 IN W.P.NO.17092 OF 2025)

For Petitioner : Mr.P.Ulaganathan

For Respondents : Ms.P.Selvi
Government Advocate (Tax)

ORDER

This Writ Petition has been filed challenging the impugned order dated 08.02.2024 passed by the second respondent and to quash the same.

2. The learned counsel for the petitioner would submit that the second respondent issued show cause notice to the petitioner for the financial year 2017-18 by uploading the same in the GST portal without serving physical copy of the said notices to the petitioner. The petitioner came to know of the assessment order belatedly. After coming to know of the assessment order, the petitioner filed an appeal through online before the first respondent challenging the assessment order. He would contend that no opportunity of personal hearing was provided by the second respondent prior to the passing of impugned order, which is violation of principles of natural justice.

3. 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. Hence, he prayed for appropriate directions.

4. The learned Government Advocate (Tax) for the respondents 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. 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 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 notice 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 second respondent dated 08.02.2024 is set aside.

ii) Consequently, the matter is remanded to the second 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 four 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 second 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.

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

22.07.2025

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

1.The Appellate Deputy Commissioner (ST)(GST),

No.1, Greams Road,
Commercial Taxes Offices,
Chennai - 600 006.

2.The Deputy Commercial Tax Officer,
Thirukazhukundram,
Chengalpattu - 603 104.

KRISHNAN RAMASAMY, J.,

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