IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 29.04.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.15646 of 2025
and
W.M.P.Nos.17684 & 17687 Of 2025

Mr.Gopinath Sathiyanathan
Proprietor of Sathya Agri Clinic
...Petitioner

Vs.

The Deputy State Tax Officer -II
Mannargudi Assessment Circle, Thiruvarur.
...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 impugned proceeding of the respondent in GSTIN : 33AOXPG3900N1ZM/2019-20 dated 22.08.2024 and the connected order under Section 73 dated 22.08.2024 and the summary of the order in Form GST DRC-07 dated 22.08.2024 issued in Reference No.ZD3308241941954 and to quash the same as passed contrary to the provision of the Central Goods and Service Tax Act, 2017 read with the provisions of the Tamil Nadu Goods and Services Tax Act, 2017 and also passed in contrary to the provisions of principles of natural justice.

For Petitioner : Mr.P.Rajkumar

For Respondent : Ms.Amirta Poonkodi Dinakaran
Government Advocate (T)

Order

Heard Mr.P.Rajkumar learned counsel appearing for the petitioner and Ms.Amirta Poonkodi Dinakaran, 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 22.08.2024 and the connected order under Section 73 dated 22.08.2024 and the summary of the order in Form GST DRC-07 dated 22.08.2024 and to quash the same.

3. The learned counsel for the petitioner would submit that all the notices/communications, which culminated in the impugned order were merely uploaded in the GST portal, and were not informed to the petitioner either through sms or email, therefore, the petitioner was not aware of such notices, and failed to file reply and appear before the respondent, however, the respondent passed the impugned order, without even granting an opportunity of hearing to the petitioner; that though the petitioner aggrieved against the impugned order filed an Appeal by complying with the pre-conditional deposit of 10% of the disputed tax, the same came to be rejected by the Appellate Authority on the ground of delay, hence, the petitioner is before this Court challenging the impugned order dated 22.08.2024.

3.1 Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and are liable to be aside. It is further submitted that the petitioner is ready and willing to deposit 15% 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.

4. The learned Government Advocate (T) for the respondent fairly submitted that since the petitioner has already deposited 10% of the disputed tax while preferring appeal and has now voluntarily came forward to deposit 15% of the disputed tax, this Court may pass appropriate orders, as it deems fit and proper.

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 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 person. 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 notice, 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 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:-

i) The impugned order passed by the respondent dated 22.08.2024 and the summary of the order in Form GST DRC-07 dated 22.08.2024 are set aside.

ii) Consequently, the matter is remanded to the respondent for fresh consideration.

iii) The petitioner is granted liberty to deposit 15% of the disputed tax, which the petitioner themselves have voluntarily came 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 are closed.

29.04.2025

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Index : yes/no
Neutral Citation : yes/no

To

The Deputy State Tax Officer -II
Mannargudi Assessment Circle, Thiruvarur.

Krishnan Ramasamy,J.,

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W.P.No.15646 of 2025

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