IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 19755 of 2025

Mega Fun Amusements
Rep by its Partner K.Jagadeeswara Rao
Ground Floor, D-13, 4th Cross Street,
Reddipalayam Road, Mugappair
Industrial Estate, Chennai,
Tamil Nadu 600 037.

Petitioner(s)

Vs

1. The Assistant Commissioner (ST)
J.J. Nagar Assessment Circle
Room No. 333, 3rd Floor,
Integrated Commercial Tax Building,
Nandanam, Chennai 600 035.

2.The Deputy Commissioner (CT)
Ambattur Division,
Commissionerate of Central Tax-
Chennai North
No. 26/1, Mahatma Gandhi Road,
Nungambakkam, Chennai - 600 034.

Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus, calling for the records of the 1st respondent's impugned order GSTIN/33AARFM8868M1Z9/2018-2019 dated 23.04.2024 and corresponding summary of the order No.ZD3304241786754 dated 23.04.2024 issued in Form GST DRC-07 and all consequential proceedings including the payment Notice dated 20.08.2024 imposing tax/Penalty /interest and payment totalling Rs. 7,49,005.00 (Rupees Seven Lakhs Forty Nine Thousand and Five only) thereby quashing the impugned order and payment Notice dated 20.08.2024.

For Petitioner(s): Adarsh Mohandas

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

ORDER

Challenging the orders dated 23.04.2024 passed by the first respondent relating to the assessment year 2018-2019 and all consequential proceedings including the payment Notice dated 20.08.2024 imposing tax/Penalty /interest and payment totalling Rs. 7,49,005.00 (Rupees Seven Lakhs Forty Nine Thousand and Five only), the petitioner had filed the present Writ Petition.

2. Ms.P.Selvi, learned Government Advocate (Tax) takes notice on behalf of the respondents. By consent of the parties, the main Writ Petition is taken up

for disposal at the time of admission stage itself.

3. The learned counsel for the petitioner submitted that the show cause notice in Form DRC-01 dated 23.01.2024 was issued to the petitioner through GST common portal, followed by which, an opportunity of personal hearing was granted to the petitioner. However, the petitioner had neither filed its reply nor availed the opportunity of personal hearing. Hence, the impugned order came to be passed by the first respondent, confirming the proposals contained in the show cause notice.

4. The learned counsel for the petitioner would further submit that notices and orders were uploaded in the GST Portal, thereby, the petitioner was unaware of the initiated proceedings and thus unable to participate in the adjudication proceedings. It is also submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, they would be able to explain the alleged discrepancies.

5. It was further submitted that the petitioner is ready and willing to pay 25% of the disputed tax and that they may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal, to which the learned Government Advocate appearing for the respondent does not have any serious objection.

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 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.

7. 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.

8. 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 orders dated 23.04.2024 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 directed to deposit 25% of the disputed tax, which the petitioner had voluntarily come 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 first 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.

9. With the above directions, this Writ Petition is disposed of. No costs.

Consequently, connected Miscellaneous Petitions are closed.

04-06-2025

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

To

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KRISHNAN RAMASAMY J.

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