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W.P.No.15820 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.15820 of 2025

and

W.M.P.Nos.17891 & 17893 of 2025

Madupriya

...Petitioner

Vs.

1. The Deputy Commissioner
GST Appeals, Erode.

2. The State Tax Officer (GST)
Pongalur Assessment Circle
Tiruppur.

...Respondents

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 order dated 26.06.2024 vide proceedings in GSTIN : 33EGPM1024F1Z1/2019-20 on the file of the second respondent and to quash the same.

For Petitioner : Mr.K.Myilsamy

For Respondents : Mr.C.Harsha Raj,
Special Government Pleader (T)



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Order

Heard Mr.K.Myilsamy learned counsel appearing for the petitioner and Mr.C.Harsha Raj, learned Special Government Pleader (T) who takes notice on behalf of the respondents. 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 second respondent dated 26.06.2024 and to quash the same.

3. The learned counsel appearing for the petitioner would submit that due to non-filing of returns, the second respondent has cancelled the petitioner's GST registration vide order dated 07.11.2019; thereafter, the petitioner had no occasion to view the portal, while things remain thus, the petitioner came to understand that the second respondent passed the assessment order dated 26.06.2024, which is impugned order, wherein, it is alleged that despite issuance of a show cause notice, the petitioner failed to file reply and appear before the second respondent for an enquiry.

3.1 The learned counsel contended that the impugned order suffers



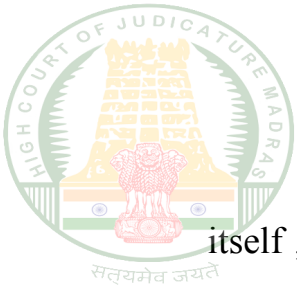
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from violation of principles of natural justice, as the petitioner has not been heard before passing the impugned order and is liable to be set aside.

However, it is stated that the petitioner is also ready and willing to deposit 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remands the matter back to the Authority for fresh consideration, and thus, prays for appropriate orders.

4. The learned Special Government Pleader (T) 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.

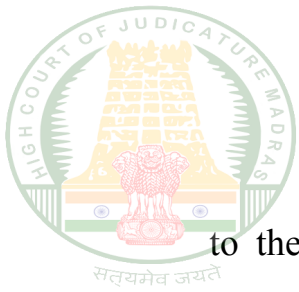
5. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notice was uploaded on the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notice issued through the GST Portal, as the petitioner's GST registration was cancelled by the second respondent in the year 2019



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itself , thereafter, the petitioner had no occasion to view the 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.

6. 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 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



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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.

6.1 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 come forward to deposit 25% of the disputed tax in the event the impugned order is set aside, to which course, the learned Special Government Pleader is also agreeable, this Court is inclined to pass/issue the following orders/directions:-

- i) The impugned show cause notice issued by the second respondent dated 26/06/2024 is set aside.
- ii) Consequently, the matter is remanded to the second respondent for fresh consideration.



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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.

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

and

v) Thereupon, the second 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 Petitions are closed.

29.04.2025

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Index : yes/no

Neutral Citation : yes/no

To

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