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

W.P.No.15506 of 2025
and
W.M.P.Nos.17518 & 17520 of 2025

Tvl. Sreevatsa Tube Corporation
Rep. by its Director, Mr.C.V.Ravindranath ...Petitioner

Vs.

1. The Assistant Commissioner (ST)
Park Town Assessment Circle
Room No.304, I.C.T. Complex
Elephant Gate Bridge Road,
Chennai – 3.

2. The State Tax Officer,
Broadway Assessment Circle
Room No.304, I.C.T. Complex,
Elephant Gate Bridge Road,
Chennai – 3. ...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 from the files of the respondent in GSTIN : 33AAACS3098R1Z5/2018-19 dated 24.04.2024, and to quash the same as invalid, without jurisdiction.

For Petitioner : Mr.D.Vijayakumar

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

Order

Heard Mr.D.Vijayakumar learned counsel appearing for the petitioner and Ms.Amirta Poonkodi Dinakaran learned Government Advocate (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 respondent dated 24.04.2024 and to quash the same as invalid, without jurisdiction.

3. The learned counsel for the petitioner would submit that the impugned order dated 24.04.2024 has been merely uploaded in the GST portal and not served on the petitioner by any other mode of service, therefore, the petitioner was not aware of the impugned proceedings and only when the second respondent informed the petitioner that he would initiate recovery proceeding, if the tax amount is not paid, the petitioner came to know of the impugned order, and immediately thereafter, he has contacted the consultant, who on verification of th portal, found that the impugned order was passed on 24.04.2024 and the same was uploaded in the Additional Notice/Order Column, and the time for filing appeal was also expired.. Therefore, the learned counsel contended that the impugned assessment order passed by the first respondent suffers from violation of principles of natural justice and is liable to be aside. 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 and remands the matter back for fresh consideration and thus, prays for appropriate orders.

4. The learned Government Advocate (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. 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 on record, it is evident that the impugned order was uploaded in the GST Portal Tab. According to the petitioner, the petitioner was not aware that all the notices, which culminated in the impugned order were merely uploaded in 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.

6.1 No doubt, sending notice by uploading in portal is a sufficient service, but, the Officer who receives no response from the petitioner to the show cause notice issued by them, instead of sending repeated reminders, they should have applied their 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 come forward to deposit 25% of the disputed tax in the event the impugned order is set aside, to which course, learned Government Advocate (T) is also agreable, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order dated 24.04.2024 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 granted liberty to deposit 25% 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 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.

vi) So far as the bank attachment order is concerned, upon production of proof with regard to the payment of 25% of the disputed tax made by the petitioner, respondent-Department is directed to issue appropriate direction 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 is closed.

29.04.2025

sd

Index : yes/no
Neutral Citation : yes/no

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Krishnan Ramasamy,J.,

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