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W.P.No. 17069 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No. 17069 of 2025

and

W.M.P.Nos.19353 & 19355 of 2025

D J ENGINEERS

Represented by its Proprietor

Mr.JEEVANANDHAM

No.64 Jupiter Street

Madhiyalagan Nagar

Padi Chennai Tamilnadu 600 050.

...Petitioner

Vs.

The Deputy State Tax Officer

Formerly Known as The Deputy Commercial Tax Officer

Padi Assessment Circle Room no.418

4th floor, Integrated Building for Commercial Tax & Registration Dept.

South Tower, Nandanam, Chennai – 60 035.

.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 relating to the impugned order in Reference No. ZD330424241658C /2018-19 dated 29.04.2024 passed by the Respondent and the consequential Order of rejection of application for rectification passed by the Respondent bearing Reference No.ZD330225068520Q /2018-19 DATED 07.02.2025 passed by the Respondent and quash the same.



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For Petitioner : Mr.K.Panneerselvam
For Respondent : Mrs.K.Vasanthamala
Government Advocate (T)

Order

Heard Mr.K.Panneerselvam, learned counsel appearing for the petitioner and Mrs.K.Vasanthamala, 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 29.04.2024 and the consequential Order of rejection of application for rectification dated 07.02.2025 passed by the respondent and to quash the same.

3. The learned counsel for the petitioner would submit that the show cause notice and reminders were uploaded in the GST common portal, which were unknown to the petitioner, and that apart, the Consultant engaged by the petitioner for GST compliances had passed away during the relevant point of time, hence, the petitioner could not file reply and appear

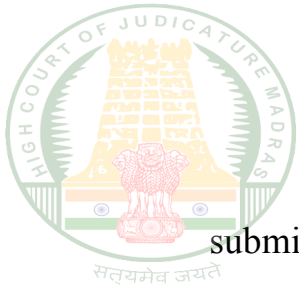


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for the personal hearing, and the petitioner came to know of the impugned order only after receiving a phone call from the respondent with regard to the alleged arrears of tax, interest and penalty. Therefore, it is contended that the act of non-responding to the show cause notice and not participating in the assessment proceedings is neither wilful nor wanton, but, purely owing to the fact that the petitioner was totally not aware of those notices, however, the respondent, without adhering to the principles of natural justice, passed the impugned order and though the petitioner filed a Petition seeking rectification of the order dated 29.04.2024, the same has been rejected by the respondent by impugned order dated 07.02.2025. Thus, challenging both the orders dated 29.04.2024 and 07.02.2025, the present Writ Petition is filed.

3.1 However, it is stated by the learned counsel that the petitioner is ready and willing to pay 25% 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 and thus, prays for appropriate orders.

4. The learned Government Advocate (T) for the respondent fairly



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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 and reminder notices were merely uploaded in the GST common Portal, which were unnoticed by the petitioner and the Consultant, whom does the petitioner had engaged for the purpose of complying with the GST regulations had passed away during the relevant point of time, which resulted in the impugned proceedings. 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.

5.1 No doubt, sending notice by uploading in portal is a sufficient



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service, but, the Officer who finds no response from the petitioner to the show cause notice, 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. Therefore, this Court is inclined to set aside the impugned orders



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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 orders are set

aside to which course, the learned Government Advocate (T) is also

agreable, this Court is inclined to pass/issue the following

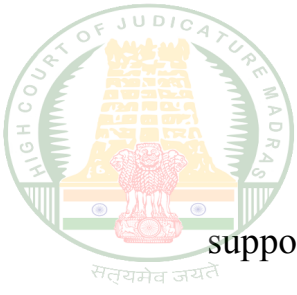
orders/directions:-

i) The impugned order passed by the respondent dated 29.04.2024 and the consequential Order of rejection of application for rectification dated 07.02.2025 are set aside.

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

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



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supportive documents within a period of two weeks.

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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 Petitions are closed.

03.06.2025

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Index : yes/no

Neutral Citation : yes/no

To

The Deputy State Tax Officer

Formerly Known as The Deputy Commercial Tax Officer

Padi Assessment Circle Room no.418

4th floor, Integrated Building for Commercial Tax & Registration Dept.

South Tower, Nandanam, Chennai – 60 035.

Krishnan Ramasamy,J.,

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