IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 16686 of 2025
AND
WP NO. 16698 OF 2025,WP NO. 16694 OF 2025,WP NO. 16691 OF 2025,WMP NO. 18894 OF 2025,WMP NO. 18896 OF 2025,WMP NO. 18890 OF 2025,WMP NO. 18884 OF 2025,WMP NO. 18886 OF 2025,WMP NO. 18876 OF 2025,WMP NO. 18881 OF 2025,WMP NO. 18888 OF 2025

Tvl.Nissha Engg Contractorrs
Rep. by its Proprietor
Mr. M V Anandhan
No. 9/4, 5th Street,
Kodambakkam, Chennai,Tamil Nadu-24

Petitioner in all W.Ps

Vs

The State Tax Officer,
Group-1, Intelligence - 1, No.1, Room No. 113, 1st Floor, Greams Road,
Thousand Lights, Chennai-06.

Respondent in all W.Ps

<u>PRAYER in WP No. 16686 of 2025:-</u>Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for records of the impugned order passed by the Respondent in

33AJXPM7284L2Z8/2022-2023 dated 28.01.2025 along with the consequential DRC-07 Order under section 74 of GST, Ref No. ZD330125256193P dated 28.01.2025 on the file of the Respondent herein and to quash the same as without jurisdiction, illegal, arbitrary against the principle of natural justice and against the law.

PRAYER in WP No. 16698 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for records of the impugned order passed by the Respondent in 33AJXPM7284L2Z8/2021-22 dated 28.01.2025 along with the consequential DRC-07 Order under section 74 of GST, Ref No. ZD330125256104W dated 28.01.2025 on the file of the Respondent herein and the quash the same as without jurisdiction, illegal, arbitrary against the principle of natural justice and against the law.

PRAYER in WP No. 16694 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for records of the impugned order passed by the Respondent in 33AJXPM7284L2Z8/2023-24 dated 28.01.2025 along with the consequential DRC-07 Order under section 74 of GST, Ref No. ZD330125256246M dated 28.01.2025 on the file of the Respondent herein and the quash the same as without jurisdiction, illegal, arbitrary against the principle of natural justice and against the law.

PRAYER in WP No. 16691 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari,_to call for records of the impugned order passed by the Respondent in 33AJXPM7284L2Z8/2020-21 dated 28.01.2025 along with the consequential DRC-07 Order, under section 74 of GST Ref No. ZD330125256029M dated 28.01.2025 on the file of the Respondent herein and the quash the same as without jurisdiction, illegal, arbitrary against the principle of natural justice and against the law.

In all W.Ps

For Petitioner(s): Mr.J.Poojesh

For Respondent(s): Mrs.K.Vasanthamala,
Government Advocate (t)

COMMON ORDER

These writ petitions have been filed by the petitioner challenging the impugned assessment orders dated 28.01.2025, passed by the respondent relating to the Assessment Years 2020-21 to 2023-24.

2.Mrs.K.Vasanthamala, learned Government Advocate (Taxes), takes notice on behalf of the respondent.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.Learned counsel appearing for the petitioner would submit that, in the present case, the petitioner have not received any physical copy of the show cause notice and also personal hearing notice. The show cause notices dated 10.10.2024 were uploaded in the GST Portal in "view additional noticed and orders" tab and the petitioner had no ocassion to open the GST Portal. Even the impugned orders dated 28.01.2025 were also uploaded in the GST Portal, which is violation of principle of natural justice. He would further submit that the petitioner is ready and willing to pay 25% of the disputed tax demand in each case, in respect of the impugned assessment period and prayed to set aside the impugned orders directing the respondent to permit the petitioner to file their reply and provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

5.Learned Government Advocate appearing for the respondent would submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of 25% of the disputed tax demand by the petitioner, in each case, in respect of the impugned assessment period, if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.

6.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the repondent and perused the materials available on record.

7.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 notices were uploaded on the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notices issued through the GST Portal and the original of the said show cause notices were 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 notices.

8.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.

9.Therefore, this Court finds that there is a lack of opportunities being provided to the petitioner. Hence, this Court is inclined to set-aside the impugned order with terms, by issuing the following directions:-

(i) The orders impugned herein are set aside on condition that the petitioner deposits 25% of the disputed tax amount, in each case, in respect of the impugned assessment period, as agreed by the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice by fixing the date of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

10.With the above directions, these writ petitions are disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

03-06-2025

rst

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

To

The State Tax Officer,
Group-1, Intelligence - 1, No.1, Room
No. 113, 1st Floor, Greams Road,
Thousand Lights, Chennai-06.

KRISHNAN RAMASAMY J.

rst

W.P.Nos.16686, 16691,
16694 & 16698 of 2025

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