IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.06.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.16979 of 2025
and
W.M.P.Nos.19269 & 19270 of 2025

M/s.SHREE LAKSHMI TEXTILES
REP BY ITS PROPRIETRIX JAYARAMAN RAAJATHI
OLD NO 2/277, NEW NO 2/279, ANAIYAN THOTTAM
VIJAYAMANGALAM PERUNDURAI,
KALLIAMPUDUR, ERODE 638 056. ...Petitioner

Vs.

1 THE DEPUTY STATE TAX OFFICER -2 (INCHARGE)
PERUNDURAI ASSESSMENT CIRCLE
3RD FLOOR NEW INTEGRATED TAX BUILDING
S.F. NO 400/1,7, 8, 46 PUDUR B VILLAGE, ERODE 638 002.

2 The Deputy Commissioner (ST)
ERODE NO 161 COMMERCIAL TAX OFFICE BUILDING
BROUGH ROAD, ERODE 638001.

3 The Branch Manager,
INDIAN OVERSEAS BANK, SRI KUMAR COMPLEX,
UTHUKULI ROAD, VIJAYAMANGALAM,
ERODE 638 056. ...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records pertaining to the DRC-07 Ref No.ZD3308242178936 dated

24.08.2024 issued in GSTIN: 33BOWPR0167N1Z6/ 2019 - 20 by the 1st respondent and the consequential Recovery Notice in Form GSTR -13 dated 23.01.2025 issued by the 2nd respondent and quash the same.

For Petitioner	:	Mr.G.Shanmugam
For Respondents 1 & 2	:	Mr.V.Prashanth Kiran Government Advocate (T)

Order

Heard Mr.G.Shanmugam learned counsel appearing for the petitioner and Mr.V.Prashanth Kiran, learned Government Advocate (T) who takes notice on behalf of the respondent-Department. 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 first respondent dated 24.08.2024 and the consequential Recovery Notice dated 23.01.2025 and to quash the same.

3. The learned counsel for the petitioner would submit that the show cause notice and the impugned order were uploaded in the GST common portal which were unknown to the petitioner and only when the petitioner's bank account came to be attached in furtherance of the impugned proceedings, the petitioner came to know of the impugned orders. 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 not wanton, but, purely owing to the fact that the petitioner was totally not aware of those notices, however, the first respondent, without even affording of an opportunity of personal hearing, passed the impugned order.

3.1 Hence, the learned counsel for the petitioner 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 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 Government Advocate (T) for the respondent-Department 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 show cause notice was not served on the petitioner in the modes of service prescribed under the CGST/TNGST Act, but wasonly uploaded in the GST common Portal, which was unnoticed by the petitioner. 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 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 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, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order passed by the first respondent dated 24.08.2024 and the recovery notice issued by the second respondent are 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 14 clear days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

and

vi) So far as bank attachment made by the second respondent 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 Petitions are closed.

10.06.2025

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Index : yes/no
Neutral Citation : yes/no
To

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Krishnan Ramasamy,J.,

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