IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2025

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.16655 of 2025
and
W.M.P.Nos.18840 & 18842 of 2025

M/s.R K Residency
Represented by its Managing Partner
Rajkumar, 391 Avinashi Road
Tiruppur 641 603. ...Petitioner

Vs.

The State Tax Officer
TIRUPPUR NORTH 2
ASSESSMENT CIRCLE
TIRUPPUR. ...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 records of the impugned proceedings of the respondent in GSTIN 33AAUFR7836D1ZU/2020-21 dated 19.2.2025 and the connected order under Section 73 dated 19.2.2025 and the summary of the order in Form GST DRC-07 dated 19.2.2025 issued in Reference No.ZD3302251859181 and quash the same as passed contrary to the provisions of the Central Goods and Service Tax Act 2017 read with the provisions of the Tamil Nadu Goods and Services Tax Act 2017 and also passed in contrary to the principles of natural justice.

For Petitioner : Mr.Benuel Ritesh Rajkumar
For Respondent : Mr.C.Harsha Raj,
Special Government Pleader (T)

Order

Heard Mr.Benuel Ritesh Rajkumar learned counsel appearing for the petitioner and Mr.C.Harsha Raj, learned Special Government Pleader (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 19.2.2025 and the connected order under Section 73 dated 19.2.2025 and the summary of the order in Form GST DRC-07 dated 19.2.2025 and 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, therefore, the petitioner could not file reply and appear 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 not 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.

3.1 Hence, the learned counsel for the petitioner contended that the impugned assessment order passed by the respondent suffers from violation of principles of natural justice and is liable to be aside. However, it is stated by the learned counsel that the petitioner is ready and willing to pay 10% 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 respondent fairly submitted that since the petitioner has voluntarily come forward to deposit 10% of the disputed tax, the prayer sought for by them 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. 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 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 10% of the disputed tax in the event the impugned order is set aside, to which course, the learned Special Government Pleader is also agreable, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order passed by the respondent dated 19.2.2025 and the connected order under Section 73 dated 19.2.2025 and the summary of the order in Form GST DRC-07 dated 19.2.2025 are set aside.

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

iii) The petitioner is granted liberty to deposit 10% 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.

and

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.

02.06.2025

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Index : yes/no
Neutral Citation : yes/no

To

The State Tax Officer
TIRUPPUR NORTH 2
ASSESSMENT CIRCLE
TIRUPPUR

Krishnan Ramasamy,J.,

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W.P.No.16655 of 2025

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