IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 02.06.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No. 16664 of 2025
and
W.M.P.Nos.18848 & 18850 of 2025

Tvl Energy Technologies
Rep. by its Proprietor Mr. Rangasamy
Elumalai No. 77/3B Madhavaram High Road
Chennai Tamil Nadu 600 011. ...Petitioner

Vs.

The Deputy State Tax Officer-1
Perambur Assessment Circle No.1 PAPJAM
Building Annexe II Floor Greams Road
Chennai 600 006. ...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 respondent in order dated 24.08.2024 in GSTIN 33ABBPE2583N1ZO/2019-20 and the consequential Rectification order in Form GST DRC-08 dated 29.11.2024 and quash the same as illegal arbitrary and in violation of principle of natural justice.

For Petitioner : M/s.C.Rekhakumari
For Respondent : Ms.P.Selvi
Government Advocate (T)

Order

Heard M/s.C.Rekhakumari learned counsel appearing for the petitioner and Ms.P.Selvi, 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 24.08.2024 and the consequential Rectification order in Form GST DRC-08 dated 29.11.2024 and quash the same.

3. The learned counsel appearing for the petitioner would submit that the respondent uploaded the notice in DRC-01, reminders and the impugned order dated 24.08.2024 under the "View Additional Notices and Orders"; which were unnoticed by the petitioner, hence, the petitioner could not file reply nor appear before the respondent, however, the respondent, without affording any opportunity of personal hearing to the petitioner, passed the impugned order. Though the petitioner filed a Rectification Petition seeking rectification of the impugned order, on 29.11.2024, the respondent passed a rectified order, which was reflected in the GST Portal as "Rectified Order', however, the petitioner was intimated about the payment of tax demand by the respondent by virtue of the impugned assessment order. Therefore, challenging both the assessment order as well as the order passed in the Rectification Petition, the petitioner has filed this Writ Petition.

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 for the petitioner 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 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 submitted that since the petitioner has failed to file any reply, the impugned order has been passed. However, she 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, reminders and the impugned assessment order were uploaded on the GST Portal Tab under the different tab, viz. Additional Notices/Orders", hence, the petitioner was not aware of the issuance of the show cause notice, which was uploaded through 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. 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 notices, 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.

6.1 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, the learned Government Advocate is also agreable, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order passed by the respondent dated 24.08.2024 and the consequential rectification Order dated 29.11.2024 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 came forward to make such payment within a period of three 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 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 Petition are closed.

02.06.2025

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Index : yes/no

Neutral Citation : yes/no

To
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Perambur Assessment Circle No.1 PAPJAM
Building Annexe II Floor Greams Road
Chennai 600 006.

Krishnan Ramasamy,J.,

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