IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **06.06.2025**

CORAM :
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

Writ Petition No.20272 of 2025 and
W.M.P.Nos.22865 & 22867 of 2025

Tvl.Sri Shivasakthi Distributors,
Rep. by its Proprietor Sivalingam Menaka,
117/44, Gandhi Road, Krishnagiri,
Tamil Nadu – 635 001. ... Petitioner

Vs.

The Assistant Commissioner (ST)
Krishnagiri – I Circle,
Hosur, Tamil nadu – 635 104. … Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari, calling for the records relating to the impugned order (GSTIN: 33BERPM1439P1ZW/2017-18) dated 14.12.2023 and its consequential Demand order dated 15.12.2023 having Reference No.ZD3312231113063 issued by the Respondent and quash the same.

For Petitioner	:	Mr.A.Neeraj for Mr.Sanskar Samdaria
For Respondent	:	Ms.P.Selvi, Government Advocate (Tax)

ORDER

Challenging the impugned proceedings in Form GST DRC-07, dated 14.12.2023 for the Assessment years 2017-2018, the present Writ Petition is filed by the petitioner.

2. Ms.P.Selvi, learned Government Advocate (Tax), takes notice on behalf of the respondent. By consent of both parties, the main Writ Petition is taken up for disposal at the time of admission stage itself.

3. The impugned order is an exparte order. According to the petitioner, the impugned order, dated 14.12.2023 was communicated through GST Portal. Thereafter the respondent made a call to the petitioner and informed with regard to the recovery. Thereafter only they came to know about the impugned order, dated 14.12.2023 and intimation notice DRC 01 dated 09.10.2023. All the above communications have also been issued to the petitioner through GST common portal. However the petitioner neither sent a reply nor appeared in person before the respondent. According to the petitioner, all notices/communications were sent web portal and he has a limited knowledge in operating the portal. Hence, he could not follow the procedures.

4. However, the learned counsel for the petitioner would submit that he is ready to deposit 25% of disputed tax and prayed for setting aside the impugned order and remit the matter back for fresh consideration.

5. The learned Government Advocate (Tax) appearing for the respondent would submit that the impugned order is an exparte order and the same may be set aside subject to the payment of 25% of the disputed tax amount.

6. Admittedly the impugned order was passed exparte. Though the petitioner has issued with DRC proceedings, however, he is unaware of the same. Had they been issued atleast one reminder notice through alternative mode preferably by RPAD, the issue of passing of exparte order would not have been arisen. This Court in number of cases held that in the event of issuing notice in respect of no reply was received, the respondent is bound to issue notice by way of any one of the alternative modes preferably by way of RPAD, otherwise the entire exercise of passing the assessment order is a vexatious one.

7. The impugned order is challenged on the premise that neither the show cause notices nor the impugned order of assessment has been served by tendering to the petitioner or by registered post, instead it was uploaded in the common portal under the head “Additional Notices and Orders” tab, thereby, the petitioner was unaware of the initiated proceedings and thus unable to participate in the adjudication proceedings.

8. It was further submitted that the petitioner is ready and willing to pay 25% of the disputed tax and that he may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal, to which the learned Government Advocate appearing for the respondent does not have any serious objection.

9. 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.

10. Therefore, this Court is inclined to set-aside the impugned order with terms, by issuing the following directions:-

i. The impugned order dated 14.12.2023 passed by the respondent is set aside subject to the payment of 25% of the dispute tax by the petitioner within a period of four weeks from the date of receipt of a copy of this order.

ii. On such payment being made by the petitioner, the matter is remanded back to the respondent for fresh consideration.

iii. The petitioner is directed to file a reply along with supportive documents, if any, within two weeks thereafter.

iv. Thereupon, the respondent is directed to consider the reply and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

11. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

06.06.2025

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Index	:	Yes/No
Speaking Order	:	Yes/No
Neutral Citation	:	Yes/No

To:

The Assistant Commissioner (ST)
Krishnagiri – I Circle,
Hosur, Tamil nadu – 635 104.

KRISHNAN RAMASAMY, J.

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