IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 19804 of 2025
and
WMP Nos.22260 & 22269 of 2025

M/S.TVL.Seema Leather Exports,
Rep by its Partners ,
1.Masthan Allahbagash,
NO.57 B Sipcot Industrial Complex,
Ranipet- 632 403.

Petitioner(s)

Vs

1. Commercial Tax Officer
Ranipet Sipcot,
Vellore.

2.The State Tax Officer
Ranipet Sipcot Assessment Circle

Respondent(s)

PRAYER

This petition has been filed under Article 226 of the Constitution of India for issuing a writ of mandamus to call for the records of the 1st respondent vide his Order of Assessment bearing Reference No. ZD3307241356676 in GSTIN No. 33ABUFS1003J1Z7/2018-19 dated 10.07.2024 and to quash the same.

For Petitioner(s): Mr.G.Saravanan

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

ORDER

The present Writ Petition is filed challenging the order dated 10.07.2024 passed by the first respondent, relating to the assessment year 2018-19.

2. Mrs. K. Vasanthamala, learned Government Advocate (Taxes) takes notice on behalf of the respondents. By consent of the parties, the main Writ Petition is taken up for disposal for final disposal at the stage of admission.

3. The learned counsel for the petitioner submitted that the petitioner is a partnership firm dealing in leather goods and is registered under the Central Goods and Service Tax Act, 2017.. During the relevant period viz. 2018-19, the petitioner had filed its return and paid the appropriate taxes. During the audit, it was noticed that the petitioner had availed an excess claim of ITC. Pursuant thereto, a show cause notice in Form DRC-01 dated 01.03.2024 was issued to the petitioner through GST common portal, followed by three reminders. Personal hearing opportunities were also granted to the petitioner. However, the petitioner had neither filed its reply nor availed the opportunities of personal

hearing. Hence, the impugned orders came to be passed by the first respondent, confirming the proposals.

4. The learned counsel for the petitioner submitted that 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, thereby, the petitioner was unaware of the initiated proceedings and thus unable to participate in the adjudication proceedings.

5. It is also submitted 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 remand the matter back to the Authority for fresh consideration. He would further submit that there is bank attachment and the same may be lifted, subject to the payment of 25% of the disputed tax. Hence, he prayed for appropriate directions.

6. The learned Government Advocate (T) for the respondents 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.

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

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 serve the notices/orders etc., effectively to the petitioner. Hence, this Court is inclined to set-aside the impugned order with terms, by issuing the following directions:-

i) The impugned order passed by the first respondent dated 10.07.2024 is 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 had 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 clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

vi) Upon production of proof with regard to the payment of 25% of the disputed tax made by the petitioner, the first respondent-Department is directed to issue appropriate direction on the petitioner's banker towards de-freezure of the petitioner's bank account forthwith.

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

04-06-2025

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

To

1.Commercial Tax Officer
Ranipet Sipcot, Vellore.

2.The State Tax Officer
Ranipet Sipcot Assessment Circle

KRISHNAN RAMASAMY J.

mrp

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