IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 03.06.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.17008 of 2025
and
W.M.P.Nos.19300 & 19301 of 2025

M/s.N.M TRADERS
rep. by its Prop Jaleel Ahamed Mujaheed Ahamed
01/1 52/150 Tippu Circle Thalavadi
Erode 638461. ..Petitioner

Vs.

THE STATE TAX OFFICER
OFFICE OF THE COMMERCIAL TAX OFFICER
SATHYAMANGALAM ERODE DISTRICT.

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 herein in GSTIN:.33DDOPM1494Q1ZQ dated 30.10.2024 along with its consequential Summary Order in Ref.No.ZD331024235660W dated 30.10.2024 for the Tax Period April 2021-March 2022 and quash the same.

For Petitioner : Mr.S.Rajasekar

For Respondent : Ms.P.Selvi
Government Advocate (T)

Order

Heard Mr.S.Rajasekar 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 30.10.2024 along with its consequential Summary Order dated 30.10.2024 and quash the same.

3. The learned counsel for the petitioner would submit that a show cause notice and all other allied communications were uploaded on the GST on-line portal, under the different column "View Additional notices/orders", which was unnoticed by the petitioner and added to that their Consultant had fallen sick at that point of time, and hence, the petitioner failed to file reply to such show cause notice and appear before the respondent, however, the respondent, without even affording an opportunity of hearing to the petitioner, passed the impugned order confirming the proposals contained in the show cause notice and uploaded the said order on the Gst On-line Portal, which even was unknown to the petitioner and only when the respondent informed the petitioner about the impugned proceeding, the petitioner came to know of the impugned proceedings and challenging the same, the present Writ Petition is filed.

3.1 The learned counsel contended that the impugned order suffers from violation of principles of natural justice, as the petitioner has not been heard before passing the impugned order and is liable to be set aside. However, it is stated 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 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 impugned show cause notice was uploaded on the GST Portal Tab under the different tab, viz. Additional Notices/Orders", which was unnoticed by the petitioner. That apart, the petitioner's Consultant had fallen sick during the relevant point of time, and 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 30.10.2024 along with its consequential Summary Order dated 30.10.2024 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 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.

03.06.2025

sd

Index : yes/no
Neutral Citation : yes/no

To

THE STATE TAX OFFICER
OFFICE OF THE COMMERCIAL TAX OFFICER
SATHYAMANGALAM ERODE DISTRICT.

Krishnan Ramasamy,J.,

sd

W.P.No. 17008 of 2025

03.06.2025