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WP No. 19155 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 04-06-2025**

CORAM

**THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY**

**WP No. 19155 of 2025**

**and**

**W.M.P.Nos.21428 & 21429 of 2025**

Garuda Glass Private limited  
Represented by its Managing Director,  
K.Chandra Obula Reddy,  
S/o. K.Narayana Reddy,  
No. 3, Gandhi Street,  
Janakiraman Colony Extension,  
Arumbakkam, Chennai 600 106.

Petitioner

Vs

The Deputy State Tax Officer - I,  
Arumbakkam Assessment Circle,  
Chennai.

Respondent

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari, calling for the records of the respondent herein order issued in Form GST DRC 07 Reference No.ZD3312231305131 dated 18.12.2023 and quash the same as illegal.



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For Petitioner : Mr.C.Bosco

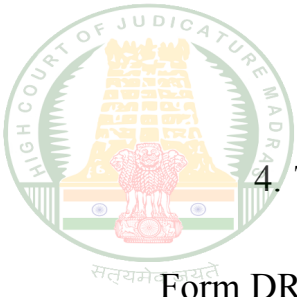
For Respondent : Mrs.K.Vasanthamala  
Government Advocate (taxes)

### **ORDER**

Challenging the order dated 18.12.2023 passed by the respondent relating to the assessment year 2017-18, the petitioner had filed the present Writ Petition.

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

3. The learned counsel for the petitioner submitted that against the order dated 18.12.2023 passed by the respondent, the petitioner preferred an appeal before the Appellate Authority. The said appeal was rejected on the threshold for the reason that the appeal was filed before the limitation period, and at the time of filing the appeal, the petitioner also paid 10% of the disputed tax as a pre-deposit condition.

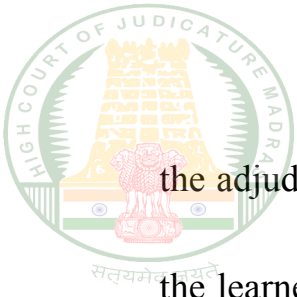


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4. The main contention of the petitioner is that the show cause notice in Form DRC-01 was issued to the petitioner on 28.09.2023 through GST common portal. Since the petitioner closed down its business due to adverse business circumstances, the petitioner had no occasion to go through the GST portal. Hence, the petitioner had neither filed its reply nor availed the opportunity of personal hearing. Therefore, the impugned order dated 18.12.2023 came to be passed by the respondent, confirming the proposals contained in the show cause notice.

5. 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.

6. 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



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the adjudicating authority to put forth their objections to the proposal, to which the learned Government Advocate appearing for the respondents does not have any serious objection. It is also submitted that the petitioner had already paid 10% of the disputed tax as a pre-deposit condition at the time of filing the appeal and also submitted that the amount may be deducted/reduced towards 25% of the disputed tax.

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 dated 18.12.2023 passed by the respondent is set aside.

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

iii) The petitioner is directed to deposit 25% of the disputed tax, which the petitioner had voluntarily come forward to make such payment, within a period of two weeks from the date of receipt of a copy of this order.

iv) If any amount has been recovered or paid out of the disputed taxes, including by way of pre-deposit in appeal, the same would be reduced/adjusted, from/towards the 25% of disputed taxes directed to be paid.

v) Thereafter, the petitioner is directed to file a reply along with supportive documents, if any, within a period of two weeks.

vi) 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.

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10. With the above directions, this Writ Petition is disposed of. No costs.

Consequently, connected Miscellaneous Petitions are closed.

**04-06-2025**

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

The Deputy State Tax Officer - I,  
Arumbakkam Assessment Circle, Chennai.



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**KRISHNAN RAMASAMY J.**  
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