



WEB COPY

WP No. 18705 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 18705 of 2025

AND

WMP Nos. 20931 & 20932 of 2025

Tvl. Iyarkai

Rep by its Proprietor R.Gavaskar,
No.30, Sabarisalai, Madipakkam,
Chennai 600 117.

Petitioner(s)

Vs

1. The State Tax Officer (ST),
Madipakkam Assessment Circle.

2. The Assistant Commissioner,
Madipakkam Assessment Circle.

Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari, call for the records 1st Respondent's order dated 13.12.2024 with Ref. No.ZD331224110605Y and to quash the same as it has been passed in violation of principles of natural justice.



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For Petitioner(s): Mr.Adithya Reddy

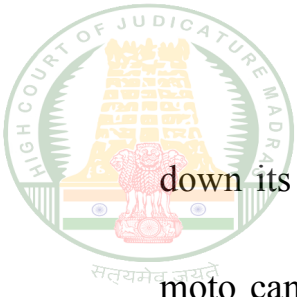
For Respondent(s): Mrs.K.Vasanthamala
Government Advocate (tax)

ORDER

Challenging the order dated 13.12.2024 passed by the first respondent relating to the assessment year 2018-19, the petitioner had filed the present Writ Petition.

2. Mrs.K.Vasanthamala, learned Government Advocate (tax), takes notice on behalf of the respondents. 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 an intimation notice in Form DRC-01A dated 13.12.2023, followed by which, a show cause notice in Form DRC-01 dated 24.12.2023 were issued to the petitioner through GST common portal. Thereafter three reminder notices were issued to the petitioner along with personal hearing opportunities. Since the petitioner closed



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down its business due to financial reasons and the second respondent had suo moto cancelled the registration of the petitioner on the ground that no returns has been filed from July 2017, the petitioner had no occasion to gone through the GST portal. Hence, the petitioner had neither filed its reply nor availed the opportunity of personal hearing. Therefore, the impugned order came to be passed by the first respondent, confirming the proposals contained in the show cause notice.

4. 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 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 respondents does not have any serious objection.

6. 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.

7. 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



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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.

8. 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 13.12.2024 passed by the first respondent is set aside.

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ii) Consequently, the matter is remanded to the first 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) Thereafter, the petitioner is directed to file a reply along with supportive documents, if any, within a period of two weeks.

v) 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.

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

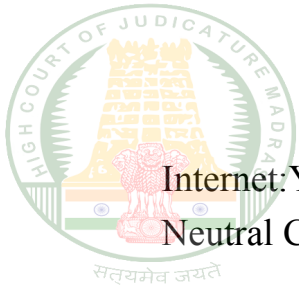
Consequently, connected Miscellaneous Petitions are closed.

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Index: Yes/No

Speaking/Non-speaking order



Internet: Yes

Neutral Citation: Yes/No

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KRISHNAN RAMASAMY J.

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