IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 19176 of 2025
and
WMP Nos. 21451, 21461, & 21472,
of 2025

Shri Senthilvel
Proprietor of Ms.Tvl. JSR Textile Mills
#170, Merkalathottam, Kasipalayam,
Nallur, Vijayapuram Post,
Tiruppur 641 606.

Petitioner

Vs

1. The State of Tamil Nadu
Represented by its Secretary to
Government,
Commercial Taxes and Registration
Department Secretariat, Fort St.George,
Chennai 600 009.

2.The Assistant Commissioner (ST),
Tiruppur Rural I.

3.The Assistant Commissioner (ST)
Tiruppur Rural-1 Assessment Circle,
Tiruppur.

4.The Joint Commissioner (ST)
Tiruppur Rural I.

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari, to call for the records pertaining to the impugned order dated 25.04.2024 in 33ALMPS6387F2ZK/2018-19 passed by the 3rd Respondent and quash the same and consequently withdraw the notice dated 26.09.2024 issued by the 2nd respondent.

For Petitioner(s): Ms.S.A.Mangai

For Respondent(s): Mr.Amirtapoonkodi Dinakaran
Government Advocate (taxes)

ORDER

Challenging the order dated 25.04.2024 passed by the 3rd respondent relating to the assessment year 2018-19, the petitioner had filed the present Writ Petition.

2. Mr.Amirtapoonkodi Dinakaran, 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 at the time of admission stage itself.

3. The learned counsel for the petitioner submitted that an intimation notice in Form DRC-01A dated 11.01.2023, followed by which, a show cause notice in Form DRC-01 dated 03.11.2023 were issued to the petitioner through GST common portal, calling upon the petitioner to furnish the return as specified under Section 44 of the Act and for which late fee was imposed at Rs.3,22,312/-. As the petitioner was unaware of the show cause notice uploaded in the GST portal, the petitioner failed to submit its reply, which led to the passing of the present impugned order dated 25.04.2024, 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 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.

5. It is further submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, he would be able to put-forth its contentions before the adjudicating authority. It is also submitted that the petitioner is willing to abide by any conditions imposed by this Court, in the event, this Court is inclined to set aside the impugned order and remand the matter to the Authority concerned for fresh consideration

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.

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

i) The impugned order dated 25.04.2024 passed by the third respondent is set aside, subject to the condition that the petitioner deposits a sum of Rs.20,000/-, within a period of two weeks from the date of receipt of a copy of this order; and the setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the third respondent shall consider the same and issue a 14 days clear notice by fixing the date of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

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

04-06-2025

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

To

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KRISHNAN RAMASAMY J.

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