IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.19765 of 2025
and
W.M.P.Nos.22196 and 22197 of 2025

M/s. Firstsource Provider Services Private Limited
Formerly known as
Quintessence Business Solutions & Services Private Limited
Represented by its Director/Authorised Signatory
Mr.Cyrus Rusi Shroff
DC2-DC4, DC8-DC10, 4th Floor, Elcot SEZ Tidel,
Civil Aerodrome Road, Villankurichi,
Coimbatore, Tamil Nadu,641014. ...Petitioner

Vs.

Commercial Tax Officer
Singanallur (North), Coimbatore-I
Coimbatore, Tamil Nadu
Room No.222E, Second Floor
Office of the Assistant Commissioner (ST)
Singanallur North Circle
Dr.Balasundaram Road,
Coimbatore-641018.

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the Respondent in Order in Reference No:ZD331123182309K passed under Section 73 of the TNGST Act, 2017 for the period 2017-2018 dated 29.11.2023 and quash the same as illegal and not in accordance with law and consequently direct the Respondent to conduct fresh assessement proceedings after providing a reasonable opportunity of hearing to the petitioner in accordance with law.

For Petitioner	:	Mr.Sivaraman R
For Respondent	:	Mr.V.Prashanth Kiran Government Advocate (Taxes)

<u>Order</u>

Mr.V.Prashanth Kiran, learned Government Advocate (Taxes), 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 dated 29.11.2023 passed by the respondent for the AY 2017-18 and to quash the same and consequently direct the Respondent to conduct fresh assessement proceedings after providing a reasonable opportunity of hearing to the petitioner in accordance with law.

3. The learned counsel for the petitioner would submit that the first respondent has issued a show cause notice in Form DRC 01 on 16.09.2023, followed by reminder notice dated 13.11.2023 and the same were uploaded in the GST portal without serving physical copy to the petitioner. Therefore, the petitioner was not aware of those notices and file to submit its reply. Since the petitioner failed to file reply to the said show cause notice, the respondent has confirmed the proposals contained in the show cause notice and passed the present impugned order. Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order.

3.1. It is also submitted by the learned counsel for the petitioner that the entire disputed tax amount has been recovered from the petitioner.

4. The learned Government Advocate (Taxes) for the respondent fairly submitted that entire tax liability has been recovered from the petitioner.

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. 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.

6. 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.

7. 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 passed by the respondent dated 29.11.2023 is set aside.

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

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

iv) 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.

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

05.06.2025

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Index : yes/no
Neutral Citation : yes/no

To

The Commercial Tax Officer
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Coimbatore, Tamil Nadu
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Krishnan Ramasamy,J.,

arr

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