IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 19772 of 2025
AND
WMP NO. 22203 OF 2025,WMP NO. 22204 OF 2025

M/s Sri Vinayaga Electricalls
Rep by its Managing Partner Mr K.
Saravanan
No.2/219 Perumal Koil Street,
Srinivasa Nagar, Iyyappanthangal,
Chennnai 600 056.

Petitioner(s)

Vs

1. The Deputy Commissioner (ST)
GST Appeal, Chennai - 1
Room No.229, 2nd floor,
PAPJM Building, Greams Road,
Chennai-600 006.

2.The Deputy State Tax Officer I
Poonamallee Assessment Circle
No.4, 109, 3rd Floor,
Integrated States Taxes office
Buildings,
Trunk Road, Bangalore High Way,
Varadharajapuram, Nazarthpet,
Chennai 600 123.

Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari, call for the records of the second respondent herein GSTIN:33ABIFS6825N1ZN/ 2019-20 dated 22-08-2024 and consequential rejection order passed by the first respondent in ARN # AD330225050228F dated 25/03/2025 and quash the same.

For Petitioner(s): Mr.S.Srinivasa Narayanan

For Respondent(s): Mr.T.N.C.Kaushik,
Additional Government Pleader
(taxes)

ORDER

Challenging the order dated 22.08.2024 passed by the second respondent relating to the assessment year 2019-20 and also to quash the consequential order dated 25.03.2025 passed by the first respondent, the petitioner had filed the present Writ Petition.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader (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 a notice in Form DRC-01 dated 09.05.2024 was issued to the petitioner through GST common

portal. As the petitioner was unaware of the notice uploaded in the common portal under the head “view additional notice/orders” tab, the petitioner had neither filed its reply nor availed the opportunity of personal hearing. Hence, the impugned order dated 22.08.2024 came to be passed by the second respondent, confirming the proposals confirmed in the show cause notice. Aggrieved by the said order dated 22.08.2024, the petitioner had preferred an appeal before the Appellate Authority. The said appeal was rejected on the ground that there was a delay in submission of appeal. It is also submitted that at the time of filing appeal, the petitioner has paid 10% of the disputed tax as a pre-deposit condition for filing the appeal.

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 Additional Government Pleader appearing for the respondents does not have any serious objection. It was further 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.

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 dated 22.08.2024 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 22.08.2024 passed by the second respondent is set aside.

ii) Consequently, the matter is remanded to the second 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 towards 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 second 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.

04-06-2025

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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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