



WEB COPY

WP No. 19789 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 19789 of 2025

AND

WMP NO. 22230 OF 2025

Nizaar Bags

Rep. by its Proprietor Mohammed Ali

Peer Nizaar

14/42, Kutty Street,

Seven Wells, Chennai, Tamil Nadu.

Petitioner(s)

Vs

Deputy Commercial Tax Officer

Vallalar Nagar Assessment Circle,

No.32, Elephant Gate Bridge Road,

Chennai 600 003.

Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus, calling for the records in the Impugned Order Ref Number ZD3308242814746 dated 29.08.2024, passed by the Respondent and quash the order and direct the Respondent to consider the submissions along with ITC reconciliation statement of GSTR 3B vs 2A.



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For Petitioner(s): Ms.Renuka

For Respondent(s): Mr.C.Harsha Raj,
Special Government Pleader
(tax)

ORDER

Challenging the order dated 29.08.2024 passed by the respondent relating to the assessment year 2019-2020, the petitioner had filed the present Writ Petition.

2. Mr.C.Harsha Raj, learned Special Government Pleader (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 an intimation notice in Form DRC-01A dated 19.03.2024, followed by which, a show cause notice in Form DRC-01 dated 23.05.2024 were issued to the petitioner through GST common portal. Thereafter three reminder notices were issued to the petitioner. However, the petitioner had neither filed its reply nor availed the opportunity of personal hearing. Hence, the impugned order came to be passed



by the respondent, confirming the proposals contained in the show cause notice.

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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 Special Government Pleader (tax) appearing for the respondent 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



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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 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

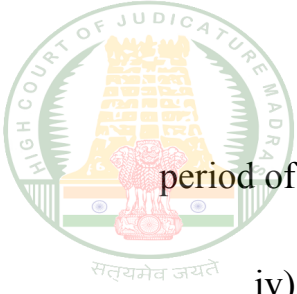
GST Act.

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 29.08.2024 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) 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.

04-06-2025

jd

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

Deputy Commercial Tax Officer
Vallalar Nagar Assessment Circle,
No.32, Elephant Gate Bridge Road, Chennai 600 003.



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KRISHNAN RAMASAMY J.
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