IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 19649 of 2025
and
W.M.P.Nos.22016, 22018 & 22019 of 2025

M/s.Ramesh and Co,
Represented by its Proprietor
Mr.R.Balan
No 53, Theepanjamman Nagar,
Mathanankuppam, Kolathur,
Chennai , Tamil Nadu 600 099.

Petitioner

Vs

1. The Commercial Tax Officer (ST),
Surapattu Assessment Circle,
Integrated Commercial Taxes Office Complex,
Room No.119, Vepery, Chennai - 600 003.

2.The Branch Manager
Axis Bank,
Kolathur Branch,
Poombhuar Nagar,
Kolathur, Chennai 600 099.

Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus, to call for the records comprised in impugned Order GSTIN/33BAZPB2768J2Z8/2017-18 dated 19/12/2023 on the file of the 1st Respondent and quash the same with direction to the 1st respondent to pass fresh order in accordance with law.

For Petitioner : Mr.P.Purushotham

For Respondents : Mr.T.N.C.Kaushik,
Additional Government Pleader
(Taxes) For R1

ORDER

Challenging the order dated 19.12.2023 passed by the first respondent relating to the assessment year 2017-18, 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 first 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 a show cause notice in Form DRC-01 dated 27.09.2023 was issued to the petitioner through GST common portal. Thereafter personal hearing notice was also issued to the

petitioner on 12.12.2023. 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 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 under the head "Additional Notices/Order" tab, 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 (taxes) appearing for the first 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 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 19.12.2023 passed by the first respondent is set aside.

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 first 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

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

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KRISHNAN RAMASAMY J.

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