IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 19201 of 2025
and
W.M.P.Nos.21479 & 21480 of 2025

Tvl. The Ponnappan Stores,
Represented by its partner,
Thiru R. Ganesh,
New No.6 Ground and First Floor,
Muthukrishnan Street,
T. Nagar, Chennai 600 017.

Petitioner

Vs

1. Deputy State Tax Officer
Pondy Bazaar Assessment Circle,
No.46, 2nd Floor, Mylapore Taluk Office,
Greenways Road,
Chennai 600 028.

2. Deputy Commissioner (GST Appeal),
Chennai - 1
No.1, Greams Road,
Commercial Tax Annex Building,
Chennai 600 006.

3.The Manager,
Axis Bank Limited,
T. Nagar Branch,
Chennai 600 017.

4.The Manager,
HDFC Bank Limited,
G.N Chetty Road Branch,
Chennai 600 017.

5.The Manager,
HDFC Bank Limited,
Perumbakkam Branch,
Chennai.

Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Ceritorarified Mandamus, thereby calling for the impugned order on the file of the 1st respondent in DRC-07 GSTIN Ref.No.33AAJFT8375N1ZE/2019-20 dated 05.08.2024 passed under Section 73 of the Tamilnadu Goods and Service Tax Act, 2017 read with Central Goods and Service Tax Act, 2017 herein after referred to as GST Act, 2017 and order in Rc.No.794/2025/A1 dated 08.04.2025 passed by the 2nd respondent and quash the same as well as revocation of the blocking of access to funds from the Petitioner's Bank Account number 920020009737546, 50200010600806 and 99900010609909 respectively with the third to fifth respondent.

For Petitioner : Mr.T.Suresh

For Respondents : Ms.P.Selvi,
Government Advocate (Taxes),
For R1 and R2

ORDER

Challenging the order dated 05.08.2024 passed by the first respondent and the order dated 08.04.2025 passed by the 2nd respondent and as well as revocation of the blocking of access to funds from the Petitioner's Bank Account number 920020009737546, 50200010600806 and 99900010609909 respectively with the third to fifth respondent, the petitioner had filed the present writ petition.

2. Ms.P.Selvi, learned Government Advocate (Taxes), takes notice on behalf of the respondents 1 & 2. 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 the pre-assessment notice, reminders and final assessment orders dated 05.08.2024 were issued to the petitioner through GST common portal. As the petitioner was unaware of the said notices/reminders, the petitioner had neither filed its reply

nor availed the opportunity of personal hearing. Hence, the impugned order dated 05.08.2024 came to be passed by the first respondent, confirming the proposals contained in the show cause notice. Aggrieved by the said order dated 05.08.2024, the petitioner had preferred an appeal before the second respondent/Deputy Commissioner (GST) Appeal. However, the said appeal was rejected on the threshold for the reason that there was delay in filing the appeal.

4. The impugned order dated 05.08.2024 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 Government Advocate appearing for the respondents 1 & 2 does not have any serious objection. It is also 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. In such circumstances, this Court is of the view that the impugned assessment order dated 05.08.2024 came to be passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notice.

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 05.08.2024 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 out of 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 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

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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