IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 19685 of 2025
and
W.M.P.Nos.22064 & 22070 of 2025

Tvl. Akash Techno Engineers India Private Limited,
Represented by its Authorized Signatory,
Mr.S.Srinivasa Rao,
MGR Street, Vadakuthu,
Cuddalore 607 308.

Petitioner

Vs

1. The State Tax Officer (FAC)
Panruti Rural, Old Kumbakonam Road,
Commercial Tax Building 1st Floor,
Near Taluk Office,
Panruti- 607 106.

2.The Deputy Commissioner (CT)
Commercial Tax Building,
Bharathiyar Salai, Fort Round Road,
Vellore - 632 001.

3.The Deputy State Tax Officer/GST Inspector
O/o. State Tax Office, Panruti Rural,
Old Kumbakonam Road,
Commercial Tax Building 1st Floor,

Near Taluk Office, Panruti 607 106.

4.The Branch Manager, Axis Bank,
Arjun Arcade NH-5 Old Gajuwaka
Visakhapatnam.

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus, calling for the records of the order in GSTIN:33AAKCA0362N1ZN/2021-22 dated 27.09.2024 in the file of the 1st Respondent and consequential order passed by the 2nd respondent in GST APL-02 dated 07.04.2025 and quash the same as arbitrary and further direct the 3rd respondent to release the Bank Attachment in Form GST DRC-13 in GSTIN:33AAKCA0362N1ZN dated 04.04.2025 issued by the 3rd respondent to the 4th respondent.

For Petitioner : Mr.M.Narasimha Bharathi

For Respondents: Mr.C.Harsha Raj,
Special Government Pleader
(Taxes),
For R1 to R3

ORDER

Challenging the order dated 27.09.2024 passed by the first respondent relating to the assessment year 2021-22, and to quash the consequential order dated 07.04.2025 passed by the second respondent, and also to direct the 3rd respondent to release the Bank Attachment in Form GST DRC-13 dated 04.04.2025 issued by the 3rd respondent to the 4th respondent, the petitioner had filed the present Writ Petition.

2. Mr.C.Harsha Raj, learned Special 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 against the order dated 27.09.2024 passed by the first respondent, the petitioner had preferred an appeal before the Appellate Authority. The said appeal has been rejected on the ground of delay in submission of appeal, and at the time of filing the appeal, the petitioner also paid 10% of the disputed tax as a pre-deposit condition.

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 appearing for the respondents does not have any serious objection. It is 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. 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 27.09.2024 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) 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

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Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
To
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Panruti- 607 106.

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KRISHNAN RAMASAMY J.

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