IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 20042 of 2025
AND
WMP NO. 22594 OF 2025,WMP NO. 22592 OF 2025

M/s.Green Flora,
Rep. by its Proprietor,
Diwakar Mohan,
No.301/1 Udayamuthur Village,
Vishamangalam Post, Thirupatthur – 635 652.

Petitioner(s)

Vs

The Assistant Commissioner (ST),
Thirupatthur Assessment Circle.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution, praying for an issuance of Writ of Certiorari, to call for the impugned proceedings of the respondent in GSTIN 33BSPPM8398P1ZH for the assessment year 2022-2023 dated 21.04.2023 and the connected order under section 74 dated 21.04.2023 and the summary of the order in Form GST DRC-07 dated 21.04.2023 issued in Reference No ZD330423099242J and to quash the same as passed contrary to the provisions of the Central Goods and Service Tax Act, 2017 read with the provisions of the Tamil Nadu Goods and Services Tax Act, 2017 and also passed in contrary to the principles of natural justice.

For Petitioner(s): Mr.P.Rajkumar

For Respondent(s): Mr.V.Prasanth Kiran,
Government Advocate (t)

ORDER

This writ petition has been filed by the petitioner challenging the impugned assessment order dated 21.04.2023, passed by the respondent for the Financial Year 2022-2023.

2.Mr.V.Prasanth Kiran, learned Government Advocate takes notice on behalf of the respondent.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.Learned counsel appearing for the petitioner would submit that, in the present case, the petitioner have not received any physical copy of the show cause notice and also personal hearing notice. The show cause notice dated 28.12.2022 and the reminders were uploaded in the GST Portal tab and the petitioner had no ocassion to open the GST Portal. Even the impugned assessment order dated 21.04.2023 was also uploaded in the GST Portal. Therefore, the petitioner was not aware of the assessment proceedings initiated against him. He would further submit that the petitioner after knowing about the impugned assessment order being passed by the respondent, had preferred an appeal before the Appellate Authority by paying 10% statutory deposit of the disputed tax demand. However, the appeal got rejected on the ground of limitation vide order dated 11.11.2024. Hence, the petitioner is ready and willing to pay another 15% of the disputed tax demand in respect of the impugned assessment period and prayed to set aside the impugned orders directing the respondent to permit the petitioner to file their reply and provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

5.Learned Government Advocate appearing for the respondent would submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of 15% of the disputed tax demand in addition to the 10% depsoite already being made by the petitioner in respect of the impugned assessment period, if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.

6.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondent and perused the materials available on record.

7.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. 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.Thus, in such circumstances, this Court is of the view that the impugned assssment order dated 21.04.2023 came to be passed without affording opportunity of personal hearing to the petitioner to establish their case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.

9.For the reasons stated above, this Court is inclined to set aside the impugned assessment order dated 21.04.2023 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned assessment order dated 21.04.2023 is hereby set aside and the matter is remanded back to the respondent for fresh consideration on condition that the petitioner deposits 15% of the disputed tax amount in respect of the impugned assessment period in addition to the 10% deposit already made, as agreed by the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice by fixing the date of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

10.With the above directions, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

06-06-2025

rst

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

To

The Assistant Commissioner (ST)
Thirupatthur Assessment Circle.

KRISHNAN RAMASAMY J.

rst

WP No. 20042 of 2025
AND WMP NO. 22594 OF
2025,WMP NO. 22592 OF 2025

06-06-2025