IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No.20470 of 2025
AND WMP Nos.23103 & 23100 of 2025

Tvl.Leto,
Rep. by its Proprietor Mr. Raju Nandhakumar,
No.10A, Bharathi Park Road, 4th Cross,
Saibaba Colony, Coimbatore,
Tamil Nadu – 641 043.

Petitioner(s)

Vs

The Deputy State Tax Officer – 1,
Mettupalayam Road Assessment Circle,
Coimbatore, Tamil Nadu-641 018.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the records of the Impugned Assessment Order in Ref. No. ZD3308241318781 dated 16.08.2024 under Section 73 of the CGST/TNGST Act, 2017 and uploaded the same along with the summary of order in DRC07 for the Financial Year 2019-20 from the files of the respondent herein, quash the same.

For Petitioner(s): Ms.Aparna Nandakumar

For Respondent(s): Ms.Amirta Poonkodi Dinakaran,
Government Advocate (t)

ORDER

This writ petition has been filed by the petitioner challenging the impugned assessment order dated 16.08.2024, passed by the respondent relating to the Financial Year 2019-2020 and to quash the same.

2.Ms.Amirta Poonkodi Dinakaran, learned Government Advocate (Taxes), 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 22.05.2024 and three reminders were uploaded in the GST Portal in "View Additional Notices and Orders" tab and the petitioner had no ocassion to open the GST Portal. Even the impugned order dated 16.08.2024 was also uploaded in the GST Portal in "View Additional Notices and Orders" tab, which is violation of principle of natural justice.

5.Further, he would submit that one of the issues involved in the present writ petition is with regard to the claim made by the petitioner for ITC, which is barred by limitation in terms of Section 16 (4) of the CGST Act, 2017. He would also submit that the said issue has been squarely covered by the common order dated 17.10.2024 passed in W.P.Nos.25081 of 2023, etc, whereby, this Court had quashed the impugned order passed by the Department. However, he would further submit that, as regards the other issues, the petitioner is ready and willing to pay 25% of the disputed tax demand, in respect of the impugned assessment period and prayed to set aside the impugned order 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.

6.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 25% of the disputed tax demand 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.

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

8.Considering the above submissions made by the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondent and upon perusal of the materials, it is evident that the impugned show cause notice was uploaded on the GST Portal in View Additional Notices and Orders" 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.

9.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.

10.Further, it was submitted by the learned counsel for the petitioner that one of the issues involved in this petition is with regard to the claim made by the petitioners for ITC, which is barred by limitation in terms of Section 16(4) of the CGST Act, 2017. As submitted by the learned counsel for the petitioner, the said issue was already dealt with by this Court in W.P.Nos.25081 of 2023, etc, whereby, this Court, vide common order dated 17.10.2024, had quashed the impugned order passed by the Department. In such view of the matter, this Court is inclined to quash the impugned order dated 16.08.2024 as regards the aforesaid issue pertaining to Section 16(4) of GST Act. As far as other issues are concerned, this Court is inclined to set aside the impugned order dated 16.08.2024 passed by the respondent since lack of opportunities being provided to the petitioner.

11.Accordingly, this Court passes the following order:-

(i) The impugned order dated 16.08.2024 is quashed only to the extent of issue relates to the claim made by the petitioner for ITC, which is barred by limitation in terms of Section 16 (4) of the CGST Act, 2017.

(ii) As far as other issues are concerned, the impugned order dated 16.08.2024 is set aside and the matter is remanded to the respondent for fresh consideration, on condition that the petitioner deposits 25% of the disputed tax amount in respect of the impugned assessment period, as agreed by the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

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

(iv) 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.

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

10-06-2025

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

To

The Deputy State Tax Officer - 1,
Mettupalayam Road Assessment Circle,
Coimbatore, Tamil Nadu-641 018.

KRISHNAN RAMASAMY J.

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