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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.06.2025

Coram:
The Honourable Mr.Justice KRISHNAN RAMASAMY

W.P.No.20510 of 2025
and W.M.P.Nos.23158 & 23159 of 2025

I2 Distribution Private Limited,
Rep. by its Authorized Signatory: Mr.Ilankumaran
6, 4th Cross Street, Madhuravoyil, Chennai,
Tamil Nadu – 600 095.

...Petitioner

Versus

The Additional Commissioner,
Office of the Commissioner of GST & Central Excise,
Chennai South Commissionerate, MHU Complex,
No.692, 5th Floor, Anna Salai, Nandanam,
Chennai – 600 035.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari to call for the records of the Respondent Order-In-Original No.39/2025-GST (ADC) dated 30.01.2025 and quash the same.

For Petitioner	:	Ms.S.Gayathri
For Respondent	:	Mr.T.Ramesh Kutty, Senior Panel Counsel

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ORDER

Mr.T.Ramesh Kutty, learned Senior Panel Counsel takes notice for the respondent.

2. With the consent of both sides, this writ petition is taken up for final disposal at the admission stage itself.

3. The present writ petition has been filed by the petitioner seeking to quash the Order-In-Original No.39/2025-GST (ADC) dated 30.01.2025 passed by the respondent herein.

4. The case of the petitioner is that on perusal of the returns filed by the petitioner, it was found that there has been difference between GSTR1 & GSTR3B filed by the petitioner. The petitioner had declared their tax liability vide filing of GSTR-1 as per Section 37 of the CGST/TNGST Act, 2017 on higher side in comparison to the tax liability discharged vide filing of GSTR-3B as per Section 39 of the CGST/TNGST Act, 2017 for the period July 2017 to October 2020. Hence, the respondent had uploaded the show cause notice as well as notices intimating the petitioner to appear for

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personal hearing in GST Online Portal. Since the petitioner was not aware of the said notices, the petitioner did not attend the personal hearings. Hence, the respondent has passed the Order-In-Original No.39/2025-GST (ADC) dated 30.01.2025 confirming the demands contained in the show cause notice. Aggrieved over the same, the petitioner has filed this writ petition for the relief stated *supra*.

5. The learned counsel for the petitioner submitted that the petitioner was unaware of any of the proceedings initiated against them, inasmuch as, neither the show cause notice nor the notices for personal hearing were served on the petitioner directly through physical mode of service but made it available only on the GST Online Portal and hence, the petitioner failed to file it reply to the said notices.

5.1. It is submitted that the respondent without even hearing the petitioner, passed the *ex-parte* impugned order which suffers from violation of the principles of natural justice and hence, the impugned order is liable to be quashed.

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5.2. It is further submitted that pursuant to the impugned order, the respondent has also initiated recovery proceedings against the petitioner, whereby, entire disputed tax has already been recovered from the petitioner. Therefore, the learned counsel prayed this Court to quash the impugned order and remand the case back to the respondent for fresh consideration.

6. The learned Senior Panel Counsel appearing for the respondent fairly submitted that since it is stated by the learned counsel for the petitioner that the entire disputed tax has already been recovered from the petitioner, subject to the verification of the said statement, the prayer sought for by the petitioner may be considered.

7. Considering the submissions made by the learned counsel on either side and upon perusing the materials on record, it is evident that the show cause notice, notices for personal hearing and impugned order were uploaded in the GST Online Portal.

8. According to the petitioner, the petitioner was not aware of the

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issuance of the show cause notice and notices for personal hearing issued through the GST Online Portal since the same were not served to the petitioner through any other physical mode. Under such circumstances, the impugned order came to be passed without affording any opportunity of personal hearing to the petitioner.

9. No doubt, sending notice by uploading in GST Online Portal is a sufficient service, but, the Officer who finds no response from the petitioner to the show cause notices should have applied his/her mind and explored the possibility of sending notices by way of other modes prescribed in Section 169 of the Central Goods and Service Tax Act, 2017 (for brevity, "CGST Act") which are also the valid mode of service under the said Act, otherwise, the service of notice will not be deemed to be an effective service, rather, it would only fulfilling the empty formalities.

10. Merely passing an *ex-parte* order by fulfilling the empty formalities will not serve any useful purpose and the same would 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

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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 CGST Act, preferably by way of RPAD which would ultimately achieve the object of the CGST Act.

11. Therefore, this Court is of the view that the impugned order suffer from violation of principles of natural justice. Once the order is passed in violation of the principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit. However, considering the fact that entire disputed tax has already been recovered from the petitioner herein, this Court issues the following directions:

(i) The impugned Order-In-Original No.39/2025-GST (ADC) dated 30.01.2025 passed by the respondent is quashed.

(ii) Consequently, the case is remanded back to the respondent for fresh consideration.

(iii) The petitioner is directed to file their Reply/Objection along with the required documents, if any, within a period of two weeks from the date

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of receipt of a copy of this order.

(iv) On filing of such Reply/Objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice affording an opportunity of personal hearing to the petitioner. Thereafter, the respondent shall decide the case in accordance with law, as expeditiously as possible.

12. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

10.06.2025

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Index: Yes/No
Neutral Citation: Yes/No
Speaking Order (or) Non-Speaking Order

To

The Additional Commissioner,
Office of the Commissioner of GST & Central Excise,
Chennai South Commissionerate, MHU Complex,
No.692, 5th Floor, Anna Salai, Nandanam,
Chennai – 600 035.

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KRISHNAN RAMASAMY, J.

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