IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-07-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 20987 of 2025
AND
WMP NO. 23718 OF 2025,WMP NO. 23717 OF 2025

M/s. Lavera Global Logistics Private Limited,
Represented by its Director Mr. Mohan
T.R, Ground Floor, 2,2-C, Gopal Street,
Parrys, Chennai, Tamil Nadu - 600 001.
(PETITIONER NAME AMENDED VIDE
ORDER DATED 24.06.2025 MADE IN
WMP.25102/2025 IN WP.20987/2025 BY KRJ)

Petitioner(s)

Vs

1. The Assistant Commissioner (ST)
Broadway Assessment Circle,
No.32, Integrated Commercial Tax Office
Complex,
Room No.304, 3rd Floor,
Elephant Gate Bridge Road, Vepery, Chennai-03.

2.The Deputy Commissioner
GST Appeal, Chennai-1,
Greams Road, Main Building,
2nd Floor, PAPJM Buildings, Chennai-600 006.

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 first respondent in GSTIN.33AACCL9799G1Z0/2019-20 dated 24.08.2024 and the consequential order of the second respondent in FORM GST APL-02 dated 06.05.2025 and quash the same and further direct the first respondent to grant a responsible and effective opportunity by forwarding the show cause notice by email as done by the assessment year 2020 -21.

For Petitioner(s): Mr.J.Sunil Kumar

For Respondent(s): Ms.P.Selvi
Government Advocate (taxes)

ORDER

This Writ Petition has been filed by the petitioner challenging the impugned assessment order dated 24.08.2024, passed by the 1st respondent and the consequential impugned appeal rejection order dated 06.05.2025, passed by the 2nd respondent.

2.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 was uploaded in the GST Portal tab and the petitioner had no ocassion to open the GST Portal. Even the impugned order dated 24.08.2024 was also uploaded in the GST portal and therefore, the petitioner was not aware of the same. He would further submit that the petitioner after knowing about the impugned assessment order being passed by the 1st respondent, had preferred an appeal before the 2nd respondent by paying 10% statutory deposit of the disputed tax demand. However, the appeal got rejected on the ground of limitation vide order dated 06.05.2025. 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 1st 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.

3.Learned Government Advocate appearing for the respondents 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% deposit 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.

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

5.Considering the above submissions made by the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondents 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.

6.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.

7.Therefore, this Court finds that there is a lack of opportunities being provided to the petitioner. For the reasons stated above, this Court is inclined to set aside the impugned assessment order dated 24.08.2024 passed by the 1st respondent and quash impugned appeal rejection order dated 06.05.2025 passed by the 2nd respondent. Accordingly, this Court pass the following orders:-

(i) The impugned assessment order dated 24.08.2024 is set aside and the matter is remanded back to the 1st 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% statutory 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)Since the impugned assessment order dated 24.08.2024 is set aside and remanded back to the 1st respondent, the impugned appeal rejection order dated 06.05.2025 is quashed.

(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 1st 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.

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

08-07-2025

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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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