IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

W.P.No.21434 of 2025
and W.M.P.Nos.24201 and 24202 of 2025

OZAANN HEALTH CARE PRODUCTS,
Represented by its Proprietor, Yusuff Ali,
No.2, Nerkundram Pathai, Vadapalani,
Chennai-600026.

... Petitioner

..Vs..

1. The Deputy Commissioner (ST)(FAC),
O/o. The Deputy Commissioner (ST)
GST Appeal, Chennai I, 2nd Floor,
Main Building, Room No.210,
No.1, Greams Road, Chennai-600006.

2. The Commercial Tax Officer/The Assistant Commissioner
(ST)(FAC),
Vadapalani Assessment Circle,
No.1, PAPJM Building (Annex),
Ground Floor, Greams Road,
Chennai-6.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent demand order made in No.ZD331223156578B dated 21.12.2023 and the order of the 1st respondent dated 16.05.2025 made in ARN/AD3302250135641/A2 and quash the same and consequently direct the respondents to give an opportunity of personal hearing.

For Petitioner : Mr.P.Suresh Babu
For Respondents : Ms. Amirta Poonkodi Dinakaran
Government Advocate (Taxes)

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O R D E R

This Writ Petition has been filed challenging the order of the 2nd respondent dated 21.12.2023 and the order of the 1st respondent dated 16.05.2025 and to quash the same and consequently direct the respondents to give an opportunity of personal hearing.

2. Ms.Amirthapoonkodi Dinakaran, learned Government Advocate (Taxes) takes notice on behalf of the respondents.

3. The learned counsel for the petitioner would submit that the 2nd respondent has issued a show cause notice on 21.09.2023 followed by notice

dated 21.09.2023, by uploading the same in the GST portal. The petitioner was not aware of those notices and hence failed to submit reply to those notices. Since the petitioner failed to file reply to the said show cause notice, the 2nd respondent has confirmed the proposals contained in the show cause notice and passed the present impugned order. Thereafter, the petitioner filed the rectification application before the 2nd respondent on 27.01.2024 and the same was rejected on 28.01.2025. Subsequently, the petitioner filed appeal beore the 1st respondent on 16.05.2025 and the same was dismissed on 16.05.2025 on the ground of delay. The learned counsel would submit that the impugned order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order.

3.1. It is also submitted by the learned counsel for the petitioner that the petitioner has already deposited 10% of disputed tax at the time of filing appeal and is ready and willing to deposit 15% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remand the matter back to the Authority for fresh consideration.

4. The learned Government Advocate (Taxes) for the respondents fairly submitted that the petitioner deposited 10% of disputed tax at the time of filing appeal and since the petitioner has voluntarily come forward to deposit 15% of the disputed tax, the prayer sought for by the petitioner may be considered.

5. 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.

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 serve the notices/orders etc., effectively to the petitioner. 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. Hence,

this Court is inclined to set-aside the impugned order with terms, by issuing the following directions:-

i) The impugned assessment order passed by the second respondent dated 21.12.2023 is set aside.

ii) Consequently, the matter is remanded to the second respondent for fresh consideration.

iii) The petitioner is granted liberty to deposit 15% of the disputed tax, which the petitioner themselves had voluntarily came forward to make such payment, within a period of two weeks from the date of receipt of a copy of this order.

iv) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

v) Thereupon, the second 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.

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

18.06.2025

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Index : yes/no
Neutral Citation : yes/no

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Krishnan Ramasamy, J.,

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