IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.06.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.21811 & 21806 of 2025
& W.M.P.Nos.24580, 24575, 24577 & 24578 of 2025

W.P.No.21811 of 2025:

Tvl.Mohit Rubber Foam India Private Limited,
(Rep. by its Director
Mr.Pradeep Khanna),
SF.100.D.No.2/29
Kaliyapuram,
Muthugoundanpudur Post,
Irugur, Coimbatore. ... Petitioner

Vs.

1.The State Tax Officer,
Palladam 2 Assessment Circle.

2.The Branch Manager,
HDFC Bank,
D-1, Shopping Centre,
No.2, Vasant Vihar,
New Delhi - 110 057.

3.The Deputy Commissioner (Appeals)
Salem. ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified mandamus calling for the records on the files of the third respondent herein in FORM GST APL-02 dated 19.05.2025 bearing Reference No.ZD3305251954084, quash the same while directing the third respondent herein to re-dispose the appeal filed by the petitioners on 12.05.2025 vide FORM GST APL-01 in Case ID No: AD330525065567U.

W.P.No.21806 of 2025:

Tvl.Mohit Rubber Foam India Private Limited,
(Rep. by its Director
Mr.Pradeep Khanna),
SF.100.D.No.2/29
Kaliyapuram,
Muthugoundanpudur Post,
Irugur, Coimbatore. ... Petitioner

Vs.

1.The State Tax Officer,
Palladam 2 Assessment Circle.

2.The Branch Manager,
HDFC Bank,
D-1, Shopping Centre,
No.2, Vasant Vihar,
New Delhi - 110 057.

3.The Deputy Commissioner (Appeals)

Salem. ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records on the files of the first respondent herein in his proceeding in FORM GST DRC-07 bearing Reference No.ZD3307241229956 dated 10.07.2024 along with the accompanying detailed order in GSTIN: 33AAECM8962G1ZA/2019-20 dated 10.07.2024 for the tax period APR 2019-MAR 2020, and quash the same.

For Petitioner in both W.P.,	:	Mr.K.A.Parthasarathy
For Respondents in both W.P.,	:	M/s.Amirta Poonkodi Dinakaran, Government Advocate (T)

COMMON ORDER

These writ petitions have been filed challenging the impugned assessment order dated 10.07.2024 and the impugned rejection order dated 19.05.2025, passed by the respondents 1 & 2.

2. M/s.Amirta Poonkodi Dinakaran, learned Government Advocate, takes notice on behalf of the respondents for both the cases. By consent of the parties, these two main writ petitions are taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in this case, all notices/communications were uploaded by the respondent under the "View Additional Notices and Orders" column in the GST common portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the assessment order dated 10.07.2024 came to be passed by the first respondent without providing any opportunity of personal hearing to the petitioner. Challenging the said assessment order, the petitioner filed an appeal with a delay of 6 months, which was also rejected on the ground of limitation on 19.05.2025. He further submitted that since the assessment order is under challenge before the third respondent, he requested this Court to condone the delay in filing the Appeal and direct the Appellate Authority to consider and pass appropriate orders.

4. Further, he would submit that the petitioner has already deposited 10% of the disputed tax amount to the respondents and now, the petitioner is willing to pay 5% of the disputed tax amount. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the respondents by setting aside the impugned rejection order dated 19.05.2025.

5. On the other hand, the learned Government Advocate appearing for the respondents would fairly admit that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to remit the matter back to the respondent, subject to the payment of 5% of the disputed tax amount by the petitioner.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents and also perused the materials available on record.

7. In the case on hand, it is evident that the show cause notice was uploaded on the GST Portal Tab. According to the petitioner, he was not aware of the issuance of the said 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 assessment order dated 10.07.2024 came to be passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notice. Challenging the said assessment order, the petitioner preferred an appeal on 12.05.2025, which was also rejected on the aspect of limitations, since the delay is beyond the condonable period i.e., after 6 months from the date of ex-parte order.

8. 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.

9. 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. Therefore, this Court finds that there is a lack of opportunities being provided to serve the notices/orders etc., effectively to the petitioner.

10. Further, it was submitted by the learned counsel for the petitioner that they had already deposited 10% of the disputed tax amount and now, he is willing to pay 5% of the disputed tax amount. In such view of the matter, this Court is inclined to set aside the impugned rejection order dated 19.05.2025 passed by the third respondent, by condoning the delay in filing the appeal, since the reason assigned by the petitioner appears to be genuine. Accordingly, this Court passes the following order:-

i) The impugned order dated 19.05.2025, is set aside and the delay of 6 months in filing the appeal before the Appellate Authority is condoned, subject to the payment of additional 5% of the disputed tax to the respondents as agreed by the petitioner, within a period of four weeks from the date of receipt of a copy of this order. The setting aside of the impugned order will take effect from the date of payment of the said amount.

ii) Upon such payment, the third respondent/Appellate Authority is directed to take the appeal on record and pass appropriate orders on merits and in accordance with law, after providing an sufficient opportunity to the petitioner, as expeditiously as possible.

11. With the above directions, the writ petition in W.P.No.21811 of 2025 is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

12. In view of the order passed in W.P.No.21811 of 2025, the writ petition in W.P.No.21806 of 2025 stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

24.06.2025

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

To

1.The State Tax Officer,
Palladam 2 Assessment Circle.

KRISHNAN RAMASAMY.J.,
vm

2.The Branch Manager,
HDFC Bank,
D-1, Shopping Centre,
No.2, Vasant Vihar,
New Delhi - 110 057.

3.The Deputy Commissioner (Appeals)
Salem.

W.P.Nos.21811 & 21806 of 2025
and W.M.P.Nos.24580, 24575, 24577 & 24578 of 2025

24.06.2025