IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-07-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 21819 of 2025
AND
WMP NO. 24587 OF 2025,WMP NO. 24592 OF 2025,WP NO. 21822 OF 2025

Tvl.ADF Trading Pvt Ltd.,
Represented by its Director,
Mr. Mohamed Javid, 32, A1,
Shenoy Road, Nungambakkam,
Chennai - 600 034.

Petitioner in both W.Ps

Vs

The Assistant Commissioner (ST)
Valluvarkottam Assessment Circle,
6th Floor, No.1, PAPJM Annex Building,
Greams Road, Chennai-06.

Respondent in both W.Ps

PRAYER in W.P.No.21819 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorarified Mandamus, calling for the records in Impugned Order passed by the Respondent vide GSTIN 33AAHCA6872A1ZY/2021-22 dated 26.07.2024 along with the consequential DRC-07 Order under Sec 73, Ref No. ZD330724315920K dated 26.07.2024 and quash the same and further direct the respondent give the opportunity of the hearing to the petitioner and pass order on merits in accordance with law.

PRAYER in WP No. 21822 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorarified Mandamus, calling for the records in Impugned Order passed by the Respondent vide GSTIN.33AAHCA6872A1ZY/2021-22 dated 11.01.2025 along with Ref No. ZD330125102756Q dated 11.01.2025 and quash the same and further direct the respondent give the opportunity of the hearing to the petitioner and pass order on merits in accordance with law.

For Petitioner(s): Mr.M.Narasimha Bharathi

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

COMMON ORDER

W.P.No.21819 of 2025 has been filed by the petitioner challenging the impugned assessment order dated 26.07.2024 passed by the respondent for the Financial Year 2021-22.

W.P.No.21822 of 2025 has been filed by the petitioner challenging the order dated 11.01.2025, passed by the respondent rejecting the rectification application filed by the petitioner to rectify the assessment order dated 26.07.2024.

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 14.12.2023 was uploaded in the GST Portal tab. Since the petitioner's accountant left the job, the petitioner was unaware of the issuance of show cause notice through GST portal. Even the impugned order dated 26.07.2024 was also uploaded in the GST portal, which is violation of principle of natural justice.

3.He would further submit that only when the petitioner recevied a call from the respondent Office, he came to know about the impugned assessment order being passed against the petitioner. Immediately, the petitioner filed the application for rectification of impugned assessment order dated 26.07.2024 and submitted the relevant documents. However, the respondent rejected the rectification application vide order dated 11.01.2025. Hence, the learned counsel for the petitioner would submit that petitioner is ready and willing to pay another 25% of the disputed tax demand in respect of the impugned assessment period and prayed to set aside the impugned orders 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.

4.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 25% of the disputed tax demand 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.

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

6.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.

7.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.

8.Thus, in such circumstances, this Court is of the view that the impugned assessment order dated 26.07.2024 came to be passed without affording opportunity of personal hearing to the petitioner to establish their case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.

9.For the reasons stated above, this Court is inclined to set aside the impugned assessment order dated 26.07.2024 passed by the respondent and the impugned rejection order dated 11.01.2025 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The orders impugned herein are set aside 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.
>
> (ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.
>
> (iii) 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.

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

01-07-2025

rst

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

To

The Assistant Commissioner (ST)
Valluvarkottam Assessment Circle,
6th Floor, No.1, PAPJM Annex Building,
Greams Road, Chennai-06.

KRISHNAN RAMASAMY J.

rst

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