IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31-07-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP Nos.22001 & 16880 of 2025
and W.M.P.Nos.24737, 24738, 19139 & 19142 of 2025

Tvl Sun Traders,
Represented by its Proprietor,
211/5A A.G. Pudur Road,
Irugur Sulur Coimbatore-641 103.

Petitioner(s)

Vs

Assistant Commissioner (ST)
Palladam -2, Assessment Circle,
Tiruppur-1, Erode.

Respondent
in W.P.No.22001 of 2025

1.Deputy Commissioner (CT),
Erode.

2.Assistant Commissioner (ST)
Palladam -2, Assessment Circle,
Tiruppur-1, Erode.

Respondent
in W.P.No.16880 of 2025

PRAYER in W.P.No.22001 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, calling for the records relating to the assessment order in Reference No. ZD330824085943Z dated 12.08.2024 passed by the Respondent and quash the same.

PRAYER in W.P.No.16880 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 relating to the rejection of appeal in FORM GST APL-02 bearing reference NO.ZD330425055262P dated 05.04.2025 issued by the 1st respondent and quash the same and thereby direct the 1st Respondent to take the appeal filed by the petitioner, against order in Reference NO.ZD330824085943Z dated 12.08.2024 passed by the 2nd Respondent, on record and dispose the appeal on merits.

In W.P.No.22001 of 2025

For Petitioner(s): Ms.R.Sri Visvapriya

For Respondent(s): Mr.C.Harsha Raj
Spl. Govt. Pleader (taxes)

In W.P.No.16680 of 2025

For Petitioner(s): Ms.R.Sri Visvapriya

For Respondent(s): Mr.V.Prashanth Kiran
Government Advocate (taxes)

COMMON ORDER

W.P.No.22001 of 2025 has been filed by the petitioner challenging the impugned assessment order dated 12.08.2024, passed by the Assessing Officer/Assistant Commissioner (ST).

W.P.No.16880 of 2025 has been filed by the petitioner challenging the appeal rejection order dated 05.04.2025, passed by the Appellate Authority/Deputy Commissioner (CT).

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

09.11.2023 and two personal hearing notices were uploaded in the GST Portal tab and since the person in charge of GST is unwell, the petitioner was not aware of the same. Even the impugned order dated 12.08.2024 was also uploaded in the GST Portal, which is violation of principle of natural justice. He would further submit that the petitioner immediately after getting knowledge about the impugned assessment order being passed, preferred an appeal before the Appellate Authority by paying 10% statutory pre-deposit. However, the appeal got rejected on the ground of limitation. Therefore, now 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 order directing the Assessing Officer/Assistant Commissioner 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 Special Government Pleader and the 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 over and above the 10% statutory pre-deposit 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 Special Government Pleader and the learned Government Advocate appearing for the repondents 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 Special Government Pleader and 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 since the person in charge of GST is unwell 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. Hence, this Court is inclined to set-aside the impugned order with terms, by issuing the following directions:-

> (i) The orders impugned herein are set aside and the matter is remanded back to the Assessing Officer/Assistant Commissioner for fresh consideration on condition that the petitioner deposits 15% of the disputed tax amount over and above the 10% statutory pre-deposit made by the petitioner 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 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.

31-07-2025
(½)

rst

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

To

1.Deputy Commissioner (CT),
Erode.

2.Assistant Commissioner (ST),
Palladam -2, Assessment Circle,
Tiruppur-1, Erode.

KRISHNAN RAMASAMY J.

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WP Nos. 22001 & 16880 of 2025

31-07-2025

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