IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 22584 of 2025
AND
WP NO. 22599 OF 2025,WMP NO. 25439 OF 2025,WMP NO. 25442 OF 2025,WMP NO. 25445 OF 2025,WMP NO. 25446 OF 2025,WMP NO. 25421 OF 2025,WMP NO. 25423 OF 2025,WP NO. 22920 OF 2025,WP NO. 22940 OF 2025,WMP NO. 25753 OF 2025,WMP NO. 25760 OF 2025,WMP NO. 25776 OF 2025,WMP NO. 25777 OF 2025,WP NO. 22602 OF 2025

Tvl.Yohesh Engineering Corporation,
Rep. by its Partner Rajagopal,
S/o. Lakshmi Narayanan,
228-B, Type II Quarters, Block- 6,
Kurinjipadi Taluk, Neyveli,
Cuddalore-607 803.

Petitioner in all W.Ps

Vs

1. The Appellate Deputy Commissioner (CT),
GST Appeal, Vellore.

2.The Deputy State Tax Officer -II
Panruti Rural Assessment Circle,
Cuddalore, Tamil Nadu – 607 803.

3.The State Tax Officer
Group VI, Cuddalore,
O/o The Joint Commissioner (ST)(Intelligence),
No.1, Vallalar Nagar, Manjakuppam,
Cuddalore – 607 001.

Respondents in all W.Ps

PRAYER in WP No. 22584 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 ex-parte Impugned Order vide Ref No- ZD330923011763J for the financial year 2018-19 dated 04/09/2023 passed by the 2nd respondent against which an Appeal was filed by the Petitioner and consequently an Impugned Order vide Ref. No. ZD330425049693A dated 04/04/2025 was passed by the 1st respondent only on the grounds of limitation and to quash the same.

PRAYER in WP No. 22599 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 ex-parte Impugned Order vide Ref No- ZD331023014785R for the financial year 2019-20 dated 04/10/2023 passed by the 2nd Respondent against which an Appeal was filed by the Petitioner and consequently an Impugned Order vide Ref. No. ZD3304250494984 dated 04/04/2025 was passed by the 1st Respondent only on the grounds of limitation and to quash the same.

PRAYER in WP No. 22920 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 ex-parte Impugned Order vide Ref No- ZD331023214943T for the financial year 2022-23 dated 31/10/2023 passed by the 2nd Respondent against which an Appeal was filed by the Petitioner dated 02/04/2025 vide Reference No- AD330425006450O and consequently an Impugned Order was passed by the 1st Respondent vide Ref. No. ZD330425049613I dated 04/04/2025 only on the grounds of limitation and quash the same and thereby direct the 1st Respondent to restore the Appeal o

PRAYER in WP No. 22940 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 ex-parte Impugned Order vide Ref No- ZD331223078066L for the financial year 2020-21 dated 12/12/2023 passed by the 2nd Respondent against which an Appeal was filed by the Petitioner dated 28/03/2025 vide Reference No- AD330325202590M consequently an Impugned Order vide Ref. No. ZD3304250496576 dated 04/04/2025 passed by the 1st Respondent only on the grounds of limitation and to quash the same and thereby direct the 1st Respondent to restore the Appeal

PRAYER in WP No. 22602 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 ex-parte Impugned order vide Ref No- ZD330224029473Q for the financial year 2021-22 dated 06/02/2024 passed by the 2nd Respondent against which an Appeal was filed by the Petitioner dated 02/04/2025 vide Reference No- AD3304250064489 and consequently an Impugned Order vide Ref. No. ZD330425049635C dated 04/04/2025 was passed by the 1st Respondent only on the grounds of limitation and quash the same

In all W.Ps

For Petitioner(s): Mr.K.Thiyagarajan

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

COMMON ORDER

These writ petitions have been filed by the petitioner challenging the impugned assessment orders dated 04.09.2023, 04.10.2023, 12.12.2023, 06.02.2024 & 31.10.2023 passed by the 2nd respondent relating to the Assessment Years 2018-19 to 2022-23 respectively and to quash the same.

2.Mr.V.Prashanth Kiran, learned Government Advocate (Taxes), takes notice on behalf of the respondents.

3.By consent of the parties, these main writ petitions are taken up for disposal at the admission stage itself.

4.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 notices and also personal hearing notices. The show cause notices dated 13.01.2022, 07.06.2022, 15.02.2023, 01.09.2023 & 17.07.2023 relating to the Assessment Years 2018-19 to 2022-23 respectively and three reminders were uploaded in the GST Portal tab and the petitioner had no ocassion to open the GST Portal. Even the impugned orders dated 04.09.2023, 04.10.2023, 12.12.2023, 06.02.2024 & 31.10.2023 were also uploaded in the GST Portal, which is violation of principle of natural justice. He would further submit that the petitioner is ready and willing to pay 25% of the disputed tax demand, in each case, in respect of the impugned assessment periods and prayed to set aside the impugned orders directing the 2nd 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.

5.Learned Government Advocate appearing for the respondent 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 by the petitioner, in each case, in respect of the impugned assessment periods, if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.

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

7.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 notices were uploaded on the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notices issued through the GST Portal and the original of the said show cause notices were not furnished to them. In such circumstances, this Court is of the view that the impugned assessment orders came to be passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notices.

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. 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.

9.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 on condition that the petitioner deposits 25% of the disputed tax amount, in each case, in respect of the impugned assessment

periods, 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 is at liberty to make the aforesaid 25% deposit after deducting the amount, whichever paid subsequent to the passing of the impugned assessment order.

(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 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.

26-06-2025

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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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