IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.06.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.23250 & 23259 of 2025
and
W.M.P.Nos.26111, 26112 & 26126 of 2025

M/s Sai Site Plan Engineers
rep by its Partner Mr T Kannan
GSTIN 33ADGFS2147D1ZF
41 Sembiyam Redhills Road
Kathirvedu Chennai Tamil Nadu

... Petitioner in both petitions

Vs.

1. The Assistant Commissioner ST
Surapattu Assessment Circle
No. 32 Integrated Comercial Tax Office,
Elephant Gate Bridge Road, Chennai

2. The Deputy State Tax Officer
Surapattu Assessment Circle
No 32 Integrated Commercial Taxes Office
Elephant Gate Bridge Road Chennai

... Respondents in both petitions

Common Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari,

call for the records in the files of the Impugned Ex-parte orders passed by the 1st respondent in Form DRC-07 Ref No. ZD3302251400980 dated 14.02.2025 along with its annexure and the 2nd respondent in Form DRC-07 Ref No. ZD3309240487923 dated 06.09.2024 along with its annexure and to QUASH the same with consequential relief to DIRECT the respondents to Defreeze the Current account No. 158911100004678 (Union Bank of India, Perambur Branch) and 097005003136 (ICICI Bank, Perambur) Mr. T. Kannan (Partner) Saving account No. 158910100072703 (Union Bank of India, Perambur Branch) and 005601512370 (ICICI Bank, Perambur) and Mr. Mookkan Muthiah (Erstwhile partner) saving account no. 000101561699 (ICICI Bank, Alwarpet)

to call for the records in the file of the Impugned Order passed by the respondent electronically in Common Portal vide FORM GST DRC-07 Ref. No. ZD330125070370X dated 08.01.2025 and QUASH the same

For Petitioner
in both petitions : Ms.S.Akila

For Respondent
in both petitions : Ms.K.Vasanthamala, GA

COMMON ORDER

These writ petitions have been filed challenging the impugned orders dated 14.02.2025, 06.09.2024 & 08.01.2025 passed by the respondent.

2. Ms.K.Vasanthamala, learned Government Advocate, takes notice on behalf of the respondents in both cases. By consent of the parties, the 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 cases, all notices/communications were uploaded by the respondent 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 impugned orders came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Therefore, this petition has been filed.

4. Further, he would submit that the petitioner is willing to pay 25% of the disputed tax amount, to the respondent in each case. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned orders.

5. On the other hand, the learned Government Advocate appearing for the respondents would submit that the respondent had uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, she has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned orders. Therefore, she requested this Court to remit the matter back to the respondent, subject to the payment of 25% of the disputed tax amount by the petitioner.

6. Heard the learned counsel for the petitioner and 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 and subsequent reminders were uploaded on the GST Portal Tab. According to the petitioner, he was not aware of the issuance of the said show cause notice and the reminders issued through the GST Portal and the original of the said show cause notice and reminders were 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.

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 the petitioner is willing to pay 25% of the disputed tax amount to the respondent in each case. In such view of the matter, this Court is inclined to set aside the impugned orders dated 14.02.2025,

06.09.2024 & 08.01.2025 passed by the respondents. Accordingly, this Court passes the following order:-

(i) The impugned orders dated 14.02.2025, 06.09.2024 & 08.01.2025 are set aside and the matters are remanded to the respective respondents for fresh consideration on condition that the petitioner shall pay 25% of the disputed tax amount to the respondent, in each case, within a period of four weeks from the date of receipt of a copy of this order. The setting aside of the impugned orders will take effect from the date of payment of the said amount.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of payment of amount as stated above.

(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.

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment made on the bank account of the petitioner cannot survive any longer and hence, it is to be lifted. As a sequel, the respondent is directed to instruct the concerned Banks to release the attachment, and de-freeze the bank account of the petitioner, immediately upon the production of a copy of this order.

11. With the above directions, these writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

27.06.2025

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

To

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No. 32 Integrated Comercial Tax Office,
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KRISHNAN RAMASAMY.J.,

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