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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.06.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.22445 & 22449 of 2025
and W.M.P.Nos.25234, 25236 & 25240 of 2025

W.P.No.22445 of 2025

Tvl.AGM Distributors,
(Rep. by its Proprietor
Mr.Narayanasamy Gangadharan),
No.25, O.No.9, Muthamman Koil Street,
Ayanavaram,
Chennai - 600 023. ... Petitioner

Vs.

1.The Assistant Commissioner (ST),
Ayanavaram Assessment Circle,
F/50, Third Floor, First Avenue,
Anna Nagar (East),
Chennai - 102.

2.The Deputy Commissioner (GST Appeal),
Chennai. ... 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 with

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Reference No.:ZD3307231178197 dated 27.07.2023 along with detailed order in GSTIN: 33ANAPG7865J2ZU/2018-19 dated 27.07.2023 for the tax period APR 2018- MAR 19 and quash the same.

W.P.No.22449 of 2025

Tvl.AGM Distributors,
(Rep. by its Proprietor
Mr.Narayanasamy Gangadharan),
No.25, O.No.9, Muthamman Koil Street,
Ayanavaram,
Chennai - 600 023. ... Petitioner

Vs.

1.The Assistant Commissioner (ST),
Ayanavaram Assessment Circle,
F/50, Third Floor, First Avenue,
Anna Nagar (East),
Chennai - 102.

2.The Deputy Commissioner (GST Appeal),
Chennai. ... 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 second respondent herein in FORM GST APL - 02 dated 05.05.2025 bearing Reference No:ZD330525018618D, quash the same while directing the second respondent herein to re-dispose the appeal filed by the petitioners on 16.12.2023 vide Form GST APL-01 in Case ID No:AD331223028085K.

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For Petitioner in both W.P. : Mr.B.Syed Abdul Wakeel

For Respondent in both W.P. : Mr.T.N.C.Kaushik, Additional Government Pleader (T)

COMMON ORDER

These writ petitions have been filed challenging the impugned assessment order dated 27.07.2023 and the impugned rejection order dated 05.05.2025 passed by the respondents.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader, takes notice on behalf of the respondents in both cases. By consent of the parties, the main writ petitions are taken up for final 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 respondents 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,

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the impugned order dated 27.07.2023 came to be passed by the first respondent without providing any opportunity of personal hearing to the petitioner. Being aggrieved over the said assessment order, an appeal was also preferred by the petitioner. However, the same was rejected by the second respondent on the aspect of limitation on 05.05.2025. Therefore, this petition has been filed.

4. Further, he would submit that the petitioner had already paid 10% of the disputed tax amount at the time of filing the appeal and now, he is willing to pay additional 15% of the disputed tax amount, to the respondent. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned assessment order.

5. On the other hand, the learned Additional Government Pleader appearing for the respondent would submit that the respondent had uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the

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passing of impugned orders. Therefore, he requested this Court to remit the matter back to the respondent, subject to the payment of 15% of the disputed tax amount as agreed by the petitioner.

6. Heard the learned counsel for the petitioner and and the learned Additional Government Pleader 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 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

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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.

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10. Further, it was submitted by the learned counsel for the petitioner that the petitioner has already paid 10% of disputed tax amount at the time of filing the appeal and now, he is willing to pay additional 15% of the disputed tax amount to the respondent. In such view of the matter, this Court is inclined to quash the impugned rejection order dated 05.05.2025 passed by the second respondent and to set aside the impugned assessment order dated 27.07.2023 passed by the first respondent. Accordingly, this Court passes the following order:-

(i) The impugned rejection order dated 05.05.2025 is hereby quashed.

(ii) The impugned order dated 27.07.2023 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 15% of the disputed tax amount to the respondent 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.

(iii) The petitioner shall file their reply/objection along with the required documents, if any, within a

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period of three weeks from the date of payment of amount as stated above.

(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.

11. With the above directions, the W.P.No.22445 of 2025 is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

12. In view of the order passed in W.P.No.22445 of 2025, the writ petition viz., W.P.No.22449 of 2025 stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

24.06.2025

Speaking/Non-speaking order
Index : Yes / No

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Neutral Citation : Yes / No
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To

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