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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2025

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The HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Writ Petition No.22338 of 2025
and
WMP.No.25154 of 2025

Tvl. J.N. Traders,
714, G.R.Plaza,
Pathari Road, Anna Salai,
Chennai - 600 006.

...Petitioner

Vs.

The Assistant Commissioner (ST),
Annasalai Assessment Circle,
Chennai Central - III.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari, calling for the records on the files of the respondent herein, order issued in Form GST DRC-07, Reference No.Form GST DRC-07 Reference No.ZD331123156137R dated 24.11.2023, quash the same.

For Petitioner : Mr.C.Bosco

For Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader (Taxes)

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O R D E R

Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes), takes notice on behalf of the Respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order dated 24.11.2023 passed by the respondent for the AY 2017-18 and to quash the same.

3. The learned counsel for the petitioner would submit that the GST registration of the petitioner was cancelled on 11.11.2019. Whileso, the respondent has issued a show cause notice on 26.09.2023 and the same was uploaded in the GST portal without serving physical copy to the petitioner. Since the GST registration of the petitioner was cancelled the petitioner had not noticed the show cause notice uploaded in the GST portal. Therefore, the petitioner was not aware of the show cause notice and filed to file reply. Since the petitioner failed to file reply to the said show cause notice, the respondent has confirmed the proposals contained in the show cause notice

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and passed the present impugned order. Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order.

3.1. It is also submitted by the learned counsel for the petitioner that the entire tax amount has been recovered by way of bank attachment. Therefore, he prays to set aside the impugned order.

4. The learned Additional Government Pleader (Taxes) for the respondent fairly submitted that entire tax amount has been recovered from the petitioner and therefore the prayer sought for by the petitioner may be considered.

5. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the GST registration of the petitioner was cancelled and impugned show cause notice was uploaded on the GST Portal Tab. According to the petitioner, the

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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.

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

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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 serve the notices/orders etc., effectively to the petitioner. 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. Hence, this Court is inclined to set-aside the impugned order with terms, by issuing the following directions:-

i) The impugned order passed by the respondent dated 24.11.2023 is set aside.

ii) Consequently, the matter is remanded to the respondent for fresh consideration.

iii) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

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iv) Thereupon, the first respondent is directed to consider the reply and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

v) The respondent-Department is directed to issue appropriate direction on the petitioner's banker towards de-freezure of the petitioner's bank account forthwith.

8. With the above observations & directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

23.06.2025

Index : Yes / No
Neutral Citation : Yes / No
Speaking Order : Yes / No
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To

The Assistant Commissioner (ST),

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Annasalai Assessment Circle,
Chennai Central - III.

KRISHNAN RAMASAMY, J.

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