IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 23033 of 2025
AND
WP NO. 23036 OF 2025,WMP NO. 25868 OF 2025,WMP NO. 25871 OF 2025,WMP NO. 25876 OF 2025,WMP NO. 25878 OF 2025

Tvl.S.K Enterprises,
Represented by its Proprietor, Thiru S Kanagaraj,
No.112, 100 Feet Road,
Vadapalani, Chennai 600 026.

Petitioner in both W.Ps

Vs

Deputy State Tax Officer,
Vadapalani Assessment Circle,
No.1, Gound floor, PAPJM Annex Building,
Greams Road, Chennai 600 006.

Respondent
in W.P.No.23033 of 2025

State Tax Officer,
Vadapalani Assessment Circle,
No.1, Gound floor, PAPJM Annex Building,
Greams Road, Chennai 600 006.

Respondent
in W.P.No.23036 of 2025

PRAYER in W.P. No.23033 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, calling for the impugned show cause notice issued in reference ZD331223046335S dated 08.12.2023 and consequential assessment order on the file of the respondent vide 33DASPS3701K1ZC/2018-19 dated 23.04.2024 for the assessment year 2018-19 and quash the same as illegal and devoid of merits.

PRAYER in WP No. 23036 of 2025:- Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, calling for the impugned show cause notice issued in reference ZD3305241787627 dated 21.05.2024 an consequential assessment order on the file of the respondent vide 33DASPS3701K1ZC/2019-20 dated 16.08.2024 for the assessment year 2019-20 and quash the same.

In both W.Ps

For Petitioner(s): Mr.T.Suresh

For Respondent(s): Ms.Amirta Poonkodi Dinakaran
Government Advocate (taxes)

COMMON ORDER

These writ petitions have been filed by the petitioner challenging the impugned assessment orders dated 23.04.2024 and 16.08.2024, passed by the respondents.

2.Ms.Amirta Poonkodi Dinakaran, learned Government Advocate (Taxes), takes notice on behalf of the respondents.

3.By consent of the parties, the main writ petition is 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 notice and also personal hearing notice. The show cause notices dated 08.12.2023 & 21.05.2024 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 23.04.2024 & 16.08.2024 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 respondents 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 respondents 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.
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> (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.

26-06-2025

rst

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

To

1.Deputy State Tax Officer,
Vadapalani Assessment Circle,
No 1 Gound floor, PAPJM Annex Building,
Greams Road, Chennai 600 006.

2.State Tax Officer,
Vadapalani Assessment Circle,
No 1 Gound floor, PAPJM Annex Building,
Greams Road, Chennai 600 006.

KRISHNAN RAMASAMY J.

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