IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.24021 of 2025
and
W.M.P.Nos.27022 & 27023 of 2025

M/s.Kathirnackanahalli Primary Agri Coop
Credit Society,
Represented by C.Rajendran, Secretary,
4/30, Society Building, Kambainallur road,
Kathirnackanahalli, Dharmapuri. ...Petitioner

Vs.

The Deputy State Tax Officer-II(FAC)
Harur.
...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the files of the respondent in GTIN:33AABAK5520F1Z5/2018-19 dated 8.6.24 and quash the same as invalid and illegal.

For Petitioner : Mr.Srikanth Venkatraman

For Respondent : Ms.Amirthapoonkodi Dinakaran
Government Advocate (Taxes)

Order

Ms.Amirthapoonkodi Dinakaran, learned Government Advocate (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 08.06.2024 passed by the respondent for the AY 2018-19 and to quash the same.

3. The learned counsel for the petitioner would submit that the respondent has issued a show cause notice to the petitioner on 26.10.2023 by uploading the same in the GST portal without serving physical copy of the same to the petitioner. Therefore, the petitioner was not aware of the same and failed to file reply to the show cause notice. 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 and passed the present impugned order. Subsequently, the respondent attached the bank account of the petitioner fo recovery of tax due. Further, 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.

4. The learned Government Advocate (Taxes) for the respondent fairly submitted that initially show cause notice followed by personal hearing notice was issued to the petitioner. Since the petitioner failed to submit its reply, impugned assessment order came to be passed. However the contention of the petitioner with respect to recovery of entire tax amount is concerned, the same shall be subject to verification.

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

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 08.06.2024 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.

iv) Thereupon, the 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 is at liberty to recover disputed tax liability in case, if no amount has been recovered from the petitioner, as contended by the counsel for the petitioner.

vi) The Respondent-Department is directed to issue appropriate direction on the petitioner's banker towards de-freezure of the petitioner's bank account forthwith upon production of the proof with regard to payment of tax by the petitioner.

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

03.07.2025

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Index : yes/no
Neutral Citation : yes/no

To

The Deputy State Tax Officer-II(FAC)
Harur.

Krishnan Ramasamy,J.,

arr

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