IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2025

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.24152 of 2025
and
W.M.P.Nos.27167 & 27171 of 2025

Tvl. Raju Enterprises,
Represented by its Proprietor,
Balakrishnan
No.1/12, SIDCO Industrial Estate,
Vadalur, Cuddalore - 607 303. ...Petitioner

Vs.

1.Deputy State Tax Officer,
Cuddalore Taluk Assessment Circle,
Sub Jail Raod, Manjakuppam,
Cuddalore - 607 001.

2.Deputy Commissioner (ST),
GST Appeal, Commercial Taxes Building,
Bharathiar Salai, Fort Round,
Vellore- 632 001.

3.The Branch Manager,
Canara Bank,
No.16/8, Cuddalore Main Road,
Seplanatham Post,
Cuddalore - 607 802. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the impugned order in Form DRC-07 in reference number ZD331223117326V dated 16.12.2023 passed under Section 74 of the Tamilnadu Goods and Service Tax Act, 2017 read with Central Goods and Service Tax Act, 2017 and order in Form APL-02 in reference number ZD3302252511950 dated 25.02.2025 passed by the second respondent and quash the same as illegal and devoid of merits as well as revocation of the blocking of access to funds from the Petitioner's Bank Account number 3622201000020 with the third respondent.

For Petitioner : Mr.T.Suresh

For Respondents : Mr.T.N.C.Kaushik
Additional Government Pleader (Tax)
for R1 & R2

ORDER

Mr.T.N.C.Kaushik, learned Additional Government Pleader (Tax), who takes notice on behalf of the respondents 1 and 2. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. This Writ Petition has been filed challenging the impugned order dated 16.12.2023 passed by the 1st respondent along with the summary order dated 25.02.2025 passed by the 2nd respondent and to quash the same.

3. The learned counsel for the petitioner submitted that the 1st respondent issued show cause notice to the petitioner for the year 2017-18 by uploading the same in the GST portal without serving physical copy of the said notices to the petitioner and the Petitioner's consultant who was entrusted with the work relating to GST failed to inform the same to the petitioner. The petitioner came to know of the assessment order belatedly. After coming to know of the assessment order, the petitioner filed an appeal before the 2nd respondent challenging the assessment order, with a delay of 29 days. The 2nd Respondent vide order dated 25.02.2025 dismissed the appeal on the ground of delay.

4. It is also submitted by the learned counsel for the petitioner that the petitioner is ready and willing to deposit 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remand the matter back to the Appellate Authority for fresh consideration. He would further submit that there is bank attachment and the same may be lifted, subject to the payment of 25% of the disputed tax. Hence, he prayed for appropriate directions.

5. The learned Additional Government Pleader (Tax) for the respondents 1 and 2 fairly submitted that since the petitioner has voluntarily come forward to deposit 25% of the disputed tax, the prayer sought for by the petitioner may be considered.

6. 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. 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.

7. 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 notice 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.

8. Therefore, this Court finds that there is a lack of opportunities being provided to serve the notices/orders etc., effectively to the petitioner. 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 1st respondent dated 16.12.2023 is set aside.

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

iii) The petitioner is granted liberty to deposit 25% of the disputed tax, which the petitioner themselves had voluntarily came forward to make such payment, within a period of four weeks from the date of receipt of a copy of this order.

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

v) 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.

vi) Upon production of proof with regard to the payment of 25% of the disputed tax made by the petitioner, the first respondent-Department is directed to issue appropriate direction on the petitioner's banker towards de-freezure of the petitioner's bank account forthwith.

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

07.07.2025

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

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To

1.Deputy State Tax Officer,
Cuddalore Taluk Assessment Circle,
Sub Jail Raod, Manjakuppam,
Cuddalore - 607 001.

2.Deputy Commissioner (ST),
GST Appeal, Commercial Taxes Building,
Bharathiar Salai, Fort Round,
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KRISHNAN RAMASAMY, J.,

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(1/2)