IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.07.2025

Coram:
The Honourable Mr.Justice KRISHNAN RAMASAMY

W.P.Nos.24131 & 21224 of 2025
and W.M.P.Nos.27134, 23978 & 23980 of 2025

M/s.MNT Electronics,
Represented by its Proprietor,
Mr.Saravanan,
Old No.3/94 New No.121,
Bharathiyar Street, Mettukuppam,
Vanagaram, Tiruvallur,
Tamil Nadu – 600 095.

...Petitioner in both W.Ps

Versus

1.The Deputy State Tax Officer,
Vanagaram Assessment Circle,
Integrated Registration and
Commercial Taxes Building,
No.4/109, Chennai Bangalore Highway,
Varadharajapuram, Poonamallee – 600 123.

2.The Deputy Commissioner (ST) (FAC),
GST Appeal II, Annexe Building, 3rd Floor,
No.1, Greams Road,
Chennai – 600 006.

...Respondents in both W.Ps

Prayer in W.P.No.24131 of 2025:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari to call for records of the impugned rejection order Form GST APL 02, against ARN No.AD3302250326966, dated 25.03.2025, on the file of the 2nd respondent herein and quash the same as illegal, arbitrary against the principles of natural justice and against the law.

Prayer in W.P.No.21224 of 2025:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari to call for records of the impugned order passed in GSTIN/33FAHPS5610C1ZY/2019-2020 dated 21.08.2024 along with DRC-07 Order under Section 73 Ref.No.ZD330824188252A dated 21.08.2024 on the file of the 1st respondent herein and quash the same as illegal, arbitrary against the principles of natural justice and against the law.

For Petitioner in both W.Ps : Mr.J.Poojesh

For Respondents in both W.Ps : Mr.T.N.C.Kaushik,
Additional Government Pleader (Tax)

COMMON ORDER

Mr.T.N.C.Kaushik, learned Additional Government Pleader (Tax) takes notice for the respondents.

2. With the consent of both sides, these writ petitions are taken up for final disposal at the admission stage itself.

3. The relief sought in W.P.No.24131 of 2025 is to quash the Rejection Order in Form GST APL 02 dated 25.03.2025 passed by the 2nd respondent.

4. The relief sought in W.P.No.21224 of 2025 is to quash the Order bearing GSTIN/33FAHPS5610C1ZY/2019-2020 along with Form GST DRC-07 bearing Ref.No.ZD330824188252A dated 21.08.2024 passed by the 1st respondent.

5. The case of the petitioner is that the petitioner company is engaged in Engineering services for industrial and manufacturing projects. The petitioner has been duly filing its returns and paying all the statutory taxes. On scrutinization of the returns filed by the petitioner for the Financial Year 2019-2020, it was found by the Officials that there is a mismatch between GSTR-1 and GSTR-3B. Hence, the 1st respondent issued a Notice in ASMT-10 dated 28.11.2023. Thereafter, the 1st respondent issued a Show Cause Notice in Form GST DRC-01 along with its Annexure dated 10.01.2024 under Section 73 of the TNGST Act, 2017, calling upon the

petitioner to file its Reply by 10.02.2024 and attend the personal hearing on 24.01.2024. Further, the first respondent sent three Reminder Notices dated 16.07.2024, 25.07.2024 and 05.08.2024 in this regard. However, the petitioner did not respond to the Show Cause Notice as well as Reminder Notices. Hence, the 1st respondent passed the Assessment Order dated 21.08.2024 along with Form GST DRC-07 dated 21.08.2024, confirming the demands proposed in the Show Cause Notice. Aggrieved over the same, the petitioner had filed an Appeal dated 13.02.2025 under Section 107 of the TNGST Act, 2015 before the 2nd respondent, but, the same was rejected by the 2nd respondent vide Order in Form GST APL 02 dated 25.03.2025. Hence, the petitioner has filed these writ petitions for the reliefs stated *supra*.

6. The learned counsel for the petitioner submitted that the Show Cause Notice, Reminder Notices and Assessment Order were merely uploaded in "View Additional Notices" column in GST Portal and the same were not served to the petitioner through physical mode and thus, the petitioner was not aware of the Notices and Assessment Order. It is submitted that since the petitioner was unaware of the Show Cause Notice

issued by the 1st respondent, the petitioner was unable to reply to the same and was also unable to appear for personal hearing.

6.1. It is further submitted by the learned counsel for the petitioner that the Assessment Order which was passed by the 1st respondent is an *ex-parte* order and the same is in violation of the principles of natural justice since prior to the passing of Assessment Order, the petitioner was not heard by the 1st respondent. Therefore, the learned counsel prayed this Court to quash the impugned Assessment Order.

6.2. The learned counsel for the petitioner submitted that on 30.01.2025, the 1st respondent had debited a sum of Rs.59,723/- from the petitioner's ITC Electronic Credit Ledger and thereafter, the petitioner had paid 10% of disputed tax amount i.e., Rs.27,750/- at the time of filing the Appeal and hence, totally a sum of Rs.87,473/- is lying with the respondent-Department.

6.3. It is also submitted by the learned counsel for the petitioner that the petitioner could not file the Appeal in time because the proprietor of the petitioner concern was frequently hospitalized due to his ill health and further, the petitioner came to know about the Assessment Order dated 21.08.2024 only on 30.01.2025, when the 1st respondent had initiated the recovery proceedings.

6.4. The learned counsel for the petitioner submitted that the petitioner filed the Appeal immediately after the initiation of recovery proceedings, but, there has been a delay in filing the Appeal.

7. The learned Additional Government Pleader (Tax) appearing for the respondents prayed that the impugned Assessment Order may be quashed and the matter may be remanded back to the 1st respondent for reconsideration.

8. Heard the learned counsel for the learned counsel for the petitioner and learned Additional Government Pleader (Tax) for the respondents.

9. From a perusal of the materials available on record, it is seen that Show Cause Notice, Reminder Notices and Assessment Order were merely

uploaded in "View Additional Notices" column in GST Portal and the same were not served to the petitioner through physical mode. Since the petitioner was not aware of the show cause notice uploaded in the GST Portal, the petitioner could not reply to the show cause notice and also, could not appear for personal hearing. Under such circumstances, without even affording an opportunity of hearing to the petitioner to put forth their case, the 1st respondent has passed the Assessment Order dated 21.08.2024. It is also seen that as against the Assessment Order, the petitioner preferred an Appeal dated 13.02.2025 before the 1st respondent. However, the 1st respondent vide FORM GST APL – 02 dated 25.03.2025, rejected the petitioner's Appeal for the reason "delay in submission of Appeal". Hence, these writ petitions.

10. As rightly pointed out by the learned counsel for the petitioner that the impugned Assessment Order passed by the 1st respondent suffers from violation of the principles of natural justice.

11. No doubt, sending notice by uploading in GST Portal is a sufficient service, but, the Officer who finds no response from the petitioner

to the show cause notices should have applied his/her mind and explored the possibility of sending notices by way of other modes prescribed in Section 169 of the CGST Act, 2017 which are also the valid mode of service under the said Act, otherwise, the service of notice will not be deemed to be an effective service, rather, it would only fulfilling the empty formalities.

12. Merely passing an *ex-parte* order by fulfilling the empty formalities will not serve any useful purpose and the same would 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 CGST Act, preferably by way of RPAD which would ultimately achieve the object of the CGST Act.

13. Once the impugned order is passed in violation of the principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit. Hence, this Court is inclined to issue/pass the following directions/orders:-

(i) The Assessment Order dated 21.08.2024 along with DRC-07 dated 21.08.2024 passed by the 1st respondent impugned in W.P.No.21224 of 2025 is quashed.

(ii) Consequently, the case is remanded back to the 1st respondent for fresh consideration.

(iii) The petitioner is directed to file their Reply/Objection along with the required documents, if any, within a period of three weeks from the date of receipt of a copy of this order.

(iv) On filing of such Reply/Objection by the petitioner, the 1st respondent shall consider the same and issue a 14 days clear notice affording an opportunity of personal hearing to the petitioner. Thereafter, the 1st respondent shall decide the case in accordance with law, as expeditiously as possible.

(v) Since the Assessment Order dated 21.08.2024 itself is quashed, the Rejection Order in Form GST APL-02 dated 25.03.2025 passed by the

2nd respondent impugned in W.P.No.24131 of 2025 cannot survive any longer and hence, the same is also quashed.

14. With the above directions, these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

09.07.2025

mrr

Index: Yes/No

Speaking Order (or) Non-Speaking Order

To

1.The Deputy State Tax Officer,
Vanagaram Assessment Circle,
Integrated Registration and
Commercial Taxes Building,
No.4/109, Chennai Bangalore Highway,
Varadharajapuram, Poonamallee – 600 123.

2.The Deputy Commissioner (ST) (FAC),
GST Appeal II,
Annexe Building, 3rd Floor,
No.1, Greams Road,
Chennai – 600 006.

KRISHNAN RAMASAMY, J.

mrr

W.P.Nos.24131 & 21224 of 2025

09.07.2025