IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.07.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.24211 & 16101 of 2025
& W.M.P.Nos.18229, 27256 & 27257 of 2025

CSM Animal Husbandary and Agri Tech
GSTIN -33AFAPV1401R1ZD,
Rep. by its Proprietor Vysagh Vijayan,
No.77/C-4, Vivekananda Nagar,
Podanur - Chettipalayam Road,
Coimbatore.

... Petitioner in both petitions

Vs.

1. The Deputy Commissioner ST FAC
GST Appeals,
Commercial Tax Office Buildings,
Dr. Balasundaram Road,
Coimbatore-641018.

2. The Deputy State Tax Officer II
Podanur Assessment Circle,
Dr. Balasundaram Road,
Coimbatore.

... Respondents in W.P.No.24211 of 2025

The Deputy Commissioner ST FAC
GST Appeals, Commercial Tax Office
Buildings, Dr. Balasundaram Road,
Coimbatore-641018.

... Respondents in W.P.No.20635 of 2025

Common Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari,

i) call for the records pertaining to the impugned order in Form GST DRC 07 reference number ZD330124068239H/2021-22 dated 16.1.2024 issued by the 2nd Respondent and quash the same

ii) call for the records pertaining to the impugned order in Form GST APL-02 reference no. ZD330325258460M dated 29.3.2025 read with MP. No. 603/2025 dated 19.3.2025 issued by the 1st Respondent and quash the same

For Petitioner
in both petitions : Mr.G.Derrick Sam

For Respondent
in both petitions : Ms.P.Selvi, GA

COMMON ORDER

These writ petitions have been filed challenging the impugned assessment order dated 16.01.2024 and the impugned rejection order dated 19.03.2025 passed by the respondent.

2. Ms.P.Selvi, learned Government Advocate, takes notice on behalf of the respondent in both cases. By consent of the parties, the main writ petitions are taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in these cases, all notices/communications were uploaded by the respondent in the GST common portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Being aggrieved over the said assessment order, an appeal was also preferred by the petitioner. However, the same was rejected by the respondent on the aspect of limitation. Therefore, this petition has been filed.

4. Further, he would submit that the entire disputed tax amount has already been recovered by the respondent. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the

respondent by setting aside the impugned assessment order.

5. On the other hand, the learned Government Advocate appearing for the respondent would submit that the respondent had uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, she has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned assessment order. Therefore, she requested this Court to remit the matter back to the respondent.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent and also perused the materials available on record.

7. In the case on hand, it is evident that the show cause notice was uploaded on the GST Portal Tab. According to the petitioner, he was not aware of the issuance of the said 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.

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.

9. 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. Therefore, this Court finds that there is a lack of opportunities being provided to serve the notices/orders etc., effectively to the petitioner.

10. Further, it was submitted by the learned counsel for the petitioner that the entire disputed tax amount has already been recovered by the respondent. In such view of the matter, this Court is inclined to quash the impugned rejection order dated 19.03.2025 and to set aside the impugned assessment order dated 16.01.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned rejection order dated 19.03.2025 is hereby quashed.

(ii) The impugned order dated 16.01.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 15% of the disputed tax amount to the respondent within a period of four weeks from the date of receipt of a copy of this order. The setting aside of the impugned order will take effect from the date of payment of the said amount.

(iii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of payment of amount as stated above.

(iv) 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.

11. With the above directions, the writ petition in W.P.No.24211 of 2025 is disposed of. The writ petition in W.P.No.16101 of 2025 is allowed. No costs. Consequently, the connected miscellaneous petitions are also closed.

10.07.2025

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

To

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