IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.07.2025

Coram:
The Honourable Mr.Justice KRISHNAN RAMASAMY

W.P.No.24884 of 2025
and W.M.P.Nos.28055 & 28056 of 2025

Tvl.Murugan Traders,
Rep. by its Proprietor – Yuvaraj,
6/154A, Chinnamaruthur,
M.Kunnathur, Pillikalpalayam Po,
Namakkal,
Tamil Nadu – 637 213.

...Petitioner

Versus

The State Tax Officer (Intelligence),
Office of the Commercial Tax Officer,
Inspection Cell – 2,
Commercial Taxes Building,
Pitchards Road, Hasthampatti,
Salem – 636 007.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records relating to the impugned proceedings passed by the respondent in order vide GSTIN: 33AJCPY8669C1ZU/2022-23 dated 18.11.2024 along with summary of order in Form GST DRC 07 bearing No.ZD331124136447M dated 18.11.2024 passed under Section 74 of the Act along with consequential proceeding of reply to the application for rejection of order requested under

Section 161 of GST Act, 2017 vide GSTIN: 33AJCPY8669C1ZU/2022-23 dated 19.02.2025 along with consequential order of rejection of application for rectification vide Ref.No.ZD3302251928283 dated 19.02.2025 to quash the same.

For Petitioner	:	Ms.R.Hemalatha
For Respondent	:	Ms.P.Selvi, Government Advocate (Tax)

ORDER

Ms.P.Selvi, learned Government Advocate (Tax) takes notice for the respondent.

2. With the consent of both sides, this writ petition is taken up for final disposal at the admission stage itself.

3. The relief sought in this writ petition is to quash the Proceedings in Order dated 18.11.2024 bearing GSTIN: 33AJCPY8669C1ZU/2022-23 along with Summary of Order in Form GST DRC 07 dated 18.11.2024 bearing No.ZD331124136447M and consequential Proceeding of Reply dated 19.02.2025 to the Application for Rejection of Order bearing GSTIN: 33AJCPY8669C1ZU/2022-23 along with consequential Order of Rejection

of Application for rectification dated 19.02.2025 bearing Ref.No.ZD3302251928283 passed by the respondent.

4. The brief facts of the case are that the petitioner is a trader in the business of Cane or Beet Sugar and Chemically Pure Sucrose, etc. and also, providing Goods Transport Services. 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 2022-23, it was found by the Officials that the petitioner had made an exempted supply, for which, the petitioner had not reversed the ITC as per Rule 42 of the CGST Act, 2017 amounting to Rs.3,22,494/-. Hence, the petitioner reversed the ITC through DRC-03 Challan without payment of interest for the same. Therefore, the respondent issued a Notice in Form GST DRC-01A dated 26.06.2024, to which, there was no response from the petitioner.

5. Subsequently, the respondent issued a Show Cause Notice in Form GST DRC-01 dated 16.08.2024 bearing Ref.No.ZD330824131830L, proposing the interest of Rs.57,413/- and imposing the penalty of Rs.3,22,494/- for the F.Y. 2022-23 under Section 74 of the CGST Act, 2017

and calling upon the petitioner to file their Objections along with documentary evidences, within a period of 30 days of receipt of that Notice and also, calling upon the petitioner to appear for personal hearing on or before 17.09.2024 at 11.30 a.m. Further, the respondent had issued three Reminder Notices dated 27.09.2024, 04.11.2024 and 11.11.2024 in this regard.

6. However, the respondent neither filed any Reply/Objection to the Show Cause Notice and Reminder Notices nor appeared for personal hearing. Under these circumstances, the respondent passed an Order in Form GST DRC-07 dated 18.11.2024, confirming the interest of Rs.57,413/- under Section 74 r/w. Section 50 of the CGST Act, 2017. Consequently, the petitioner filed an Application dated 02.12.2024, for rectification of Order dated 18.11.2024 on the ground that the interest will not be applicable when ITC was availed but not utilized and reversal done.

7. While so, the respondent sent a Reply dated 18.02.2025 to the petitioner's Application along with Order dated 19.02.2025, rejecting the petitioner's Application for rectification of Order dated 18.11.2024.

Aggrieved over the same, the petitioner has filed the present writ petition for the relief stated *supra*.

8. The learned counsel for the petitioner submitted that all the notices and impugned Order in Form GST DRC-07 dated 18.11.2024 were uploaded only in the GST Portal and the same were not served to the petitioner through physical mode and hence, the petitioner was not aware of the said notices and impugned order. It is submitted that since the petitioner was unaware of the Show Cause Notice, the petitioner was unable to reply to the same and also, unable to attend the personal hearing.

8.1. It is further submitted by the learned counsel for the petitioner that the impugned Order in Form GST DRC-07 dated 18.11.2024 has been passed within three months from the date of issuance of Show Cause Notice dated 16.08.2024 and apart from that, prior to the passing of said order, the petitioner was not heard by the respondent and hence, the impugned Order in Form GST DRC-07 dated 18.11.2024 is in violation of the principles of natural justice. Therefore, the learned counsel for the petitioner prayed this Court to quash the impugned Order along with Summary of Order in Form

GST DRC-07 dated 18.11.2024 as well as Order of Rejection dated 19.02.2025 passed by the respondent and remand the case back to the respondent for fresh consideration.

9. The learned Government Advocate (Tax) appearing for the respondent fairly submitted that if the case is remanded back to the respondent, the respondent would reconsider the case and pass appropriate orders.

10. Heard the learned counsel for the petitioner and the learned Government Advocate (Tax) for the respondent.

11. From a perusal of the materials available on record, it is seen that the Show Cause Notice and Reminder Notices were merely uploaded in the 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 as well as Reminder Notices uploaded in the GST Portal, the petitioner could not reply to the Show Cause Notice and also, could not appear for personal hearing.

12. Under these circumstances, the respondent has passed the Order in Form GST DRC-07 dated 18.11.2024 without even affording any opportunity of hearing to the petitioner. The said order was also uploaded in the GST portal alone and the same was not served to the petitioner through physical mode. Further, the Order in Form GST DRC-07 dated 18.11.2024 has been passed within a period of three months from the date of issuance of Show Cause Notice. As rightly pointed out by the learned counsel for the petitioner that the impugned Order in Form GST DRC-07 dated 18.11.2024 suffers from violation of the principles of natural justice.

13. 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 Central Goods and Service Tax Act, 2017 (for brevity, "CGST Act") 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.

14. 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.

15. Considering the above facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court is inclined to issue/pass the following directions/orders:-

(i) The Order along with Summary of Order in Form GST DRC-07 dated 18.11.2024 and the Order of Rejection dated 19.02.2025 passed by the respondent are quashed and the case is remanded back to the respondent for fresh consideration, on condition that the petitioner shall pay a sum of

Rs.5,000/- (Rupees Five Thousand Only) to the Principal Government Naturopathy Medical College and Hospital, Chennai bearing Account No.7883022723, IFSC Code: IDIB000M157, within a period of two weeks from the date of receipt of a copy of this order.

(ii) The petitioner is directed to file their Reply/Objection along with the required documents, if any, within a period of three 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 affording an opportunity of personal hearing to the petitioner. Thereafter, the respondent shall decide the case in accordance with law, as expeditiously as possible.

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

09.07.2025

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Index: Yes/No

Speaking Order (or) Non-Speaking Order

To

The State Tax Officer (Intelligence),
Office of the Commercial Tax Officer,
Inspection Cell – 2,
Commercial Taxes Building,
Pitchards Road, Hasthampatti,
Salem – 636 007.

KRISHNAN RAMASAMY, J.

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