IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.07.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.24861 of 2025
& W.M.P.Nos.28021 & 28024 of 2025

Mrs.Oobuli Kalarani,
Proprietor,
Tvl.Cotton Leaf India,
No.363, Kalarampatty Road,
Karungalpatty,
Z4 Kondalampatty, Salem,
Tamil Nadu - 636 006. ... Petitioner

Vs.

1.The State Tax Officer,
(Also known as Commercial Tax Officer),
Annathanapatty Assessment Cirle,
Salem -1,
Salem, Tamil Nadu.

2.The Assistant Commissioner (ST),
Annthanapatty Assessment Circle, Salem-I,
Commercial Taxes Office Building,
No.17, Pitchards Road, Hasthampatty,
Salem, Tamil Nadu - 636 007.

3.The Branch Manager,
Canara Bank,
CSI Compound,
Fort Main Road,

Salem, Tamil Nadu - 636 001. ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records on the files of the first respondent herein in GSTIN:33CTBPK8105N1ZL/2020-21 dated 12.02.2025, order under Section 73 of the TNGST Act, 2017 and the summary of the order in Form GST DRC-07 both dated 12.02.2025 issued in Reference No: ZD3302251130155 and consequential order passed by the second respondent in GSTIN: 33CTBPK8105N1ZL/2025/A2 dated 28.06.2025 and quash the same and consequently direct the second respondent to lift the attachment of the petitioner's Bank Account No.1217201007347 held by the petitioner in the third respondent bank.

For Petitioner : Mr.A.N.R.Jayaprathap

For Respondents 1 & 2: Mr.T.N.C.Kaushik,
Additional Government Pleader (T)

ORDER

This writ petition has been filed challenging the impugned orders dated 12.02.2025 & 28.06.2025 passed by the respondents 1 & 2.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader, takes notice on behalf of the respondents 1 & 2. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in this case, all notices/communications were uploaded by the respondent under the "View Additional Notices and Orders" column 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 assessment order dated 12.02.2025 came to be passed by the first respondent respondent without providing any opportunity of personal hearing to the petitioner. Subsequently, the second respondent has attached the petitioner's bank account vide impugned order dated 28.06.2025. Therefore, this petition has been filed.

4. Further, he would submit that the respondent has already deducted a sum of Rs.1,00,000/- from the petitioner's account and now, the petitioner is willing to pay 25% of the disputed tax amount after

deducting the amount already 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 order.

5. On the other hand, the learned Additional Government Pleader appearing for the respondent would fairly admit that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, he requested this Court to remit the matter back to the respondent, subject to the payment of 25% of the disputed tax amount by the petitioner.

6. Heard the learned counsel for the petitioner and the learned Additional Government Pleader 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 dated 12.02.2025 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 respondents have already deducted a sum of Rs.1,00,000/- from the petitioner and now, the petitioner is willing to pay 25% of the disputed tax amount, after deducting the amount already recovered by the respondents. In such view of the matter, this Court is inclined to set aside the impugned orders dated 12.02.2025 & 28.06.2025 passed by the respondents 1 & 2. Accordingly, this Court passes the following order:-

> (i) The impugned orders dated 12.02.2025 & 28.06.2025 are set aside and the matter is remanded to the authorities concerned for fresh consideration on condition that the petitioner shall pay 25% of the disputed tax amount, after deducting the amount

already recovered by the respondents 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.

(ii) 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.

(iii) On filing of such reply/objection by the petitioner, the authorities concerned 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.

(iv) Considering the fact that the impugned orders itself have been set aside, this Court is of the opinion that the attachment made on the bank account of the petitioner cannot survive any longer and hence, it is to be lifted. As a sequel, the respondents 1 & 2 are directed to instruct the concerned Bank to release the attachment, and de-freeze the bank account of the petitioner, immediately upon the production of a copy of this order.

With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

09.07.2025

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

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<u>KRISHNAN RAMASAMY.J.,</u>

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