IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.26045 of 2025
and
W.M.P.Nos.29305, 29308 and 29310 of 2025

Saravanan Control Systems,
Represented by its Proprietor
Mr.Gajendran Saravanan,
No.22/3, Rajiv Gandhi Street,
Ayakolathur, Thodukadu post,
Kancheepuram-602 105. ...Petitioner

Vs.

1. The State Tax Officer,
Group III, Intelligence-II
Office of the Joint Commissioner (ST),
No.1, PAPJM Buildings,
Greams Road, Thousand Lights,
Chennai- 600006.

2. The Deputy Commissioner (ST),
Kanchipuram Zone,
1st Floor, Commercial Taxes Building,
Collectorate Campus, Kanchipuram 631501.

3. The Bank Manager,
Bank of India
No. 150, Shanti Complex, 1 and 151/2,
Chennai Bangalore Highway,
Sri SaiLaksmi Nagar, Nenmeli,
Sriperumbudur – 602105.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the impugned proceedings of the first respondent in GSTIN 33BMGPS0191D1ZA /2017-18 dated 04.02.2025 and the connected order under section 74 dated 04.02.2025 and the summary of the order in Form GST DRC-07 dated 04.02.2025 issued in Reference No ZD330225037285N and quash the same as passed contrary to the provisions of the Central Goods and Service Tax Act, 2017 read with the provisions of the Tamil Nadu Goods and Services Tax Act, 2017, passed beyond the period of limitation and also passed in contrary to the principles of natural justice.

For Petitioner : Mr.Benuel Rithesh Rajkumar

For Respondents : Mrs.K.Vasanthamala
Government Advocate (Taxes)

<u>Order</u>

Mrs.K.Vasanthamala, learned Government Advocate (Taxes), takes notice on behalf of the respondents. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the orders dated 04.02.2025 passed by the first respondent for the AY 2017-18 and to quash the same.

3. The learned counsel for the petitioner would submit that the first respondent has issued a show cause notice on 20.07.2024 followed by three reminders dated 27.01.2025, 30.01.2025 and 03.02.2025 by uploading the same in the GST portal, without serving the physical copy of the same to the petitioner. Therefore, the petitioner was not aware of those notices and failed to submit its reply. Since the petitioner failed to file reply to the said show cause notice, the first respondent has confirmed the proposals contained in the show cause notice and passed the present impugned orders. Therefore, the learned counsel would submit that the impugned orders suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned orders.

3.1. 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 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.

4. The learned Government Advocate (Taxes) for the first respondent 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.

5. 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.

6. 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. 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.

7. Therefore, this Court finds that there is a lack of opportunities being provided to serve the notices/orders etc., effectively to the petitioner. 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. Hence, this Court is inclined to set-aside the impugned orders with terms, by issuing the following directions:-

i) The impugned order passed by the first respondent dated 30.09.2024 is set aside.

ii) Consequently, the matter is remanded to the first 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 two 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 third respondent-Bank is directed to de-freeze the petitioner's bank account forthwith.

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

21.07.2025

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Index : yes/no
Neutral Citation : yes/no

To

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   Group III, Intelligence-II
   Office of the Joint Commissioner (ST),
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Krishnan Ramasamy,J.,

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KRISHNAN RAMASAMY, J.,

Today, the matter has been listed under the caption "for being mentioned" at the instance of the learned counsel for the petitioner.

2. The learned counsel appearing for the petitioner would submit that the petitioner has already deposited the entire disputed tax but in the order it has been wrongly mentioned as "the petitioner is ready and willing to deposit 25% of the disputed tax" and the same may be clarified.

3. This Court having verified the same from the records and convinced that there is typographical error crept in the order in W.P.No.26045 of 2025, dated 21.07.2025. Hence, Registry is directed to delete the paragraph nos.***3.1.*** and ***4*** and incorporate the same as follows:-

*"**3.1**. It is also submitted by the learned counsel for the petitioner that the petitioner has already deposited the entire disputed tax on 05.03.2025. He would further submit that there*

is bank attachment and the same may be lifted. Hence, he prayed for appropriate directions."

*"**4**. The learned Government Advocate (Taxes) for the first respondent fairly submitted that since the petitioner has already deposited the entire disputed tax, the prayer sought for by the petitioner may be considered."*

4. Registry is also directed to delete the ***paragraph no.7 (iii)***. Except the same, all other aspects shall remain intact.

5. Registry is directed to make necessary correction in the order and issue a fresh order copy to the parties concerned.

28.07.2025

sri

KRISHNAN RAMASAMY, J.,

sri

W.P.No.26045 of 2025
and
W.M.P.Nos.29305, 29308 & 29310 of 2025

28.07.2025