IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-07-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 25733 of 2025
AND
WMP NO. 28927 OF 2025,WMP NO. 28930 OF 2025,WMP NO. 28932 OF 2025,WP NO. 25735 OF 2025,WMP NO. 28926 OF 2025,WP NO. 25738 OF 2025

Shri.Subramani Kandavel,
Proprietor of M/s. Kandavel,
No.16, 12th Cross Street,
Lakshmipuram Thiruninaravur,
Chennai 602 024.

Petitioner in all W.Ps

Vs

1.The Appellate Deputy Commissioner (CT),
GST, Appeal-I Chennai, Greams Road,
Chennai-600 006.

2.The Assistant Commissioner (ST) (FAC),
Avadi Assessment Circle,
Integrated Commercial Taxes Building
(North Division),
Elephant Gate Bridge Road,
Vepery, Chennai 600 003.

Respondents in all W.Ps

<u>PRAYER in WP No. 25733 of 2025:-</u>Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, **to** call for the records pertaining to the impugned order dated 23.04.2024 in Reference No.ZD3304241773678 passed by the 2nd respondent and quash the same.

<u>PRAYER in WP No. 25735 of 2025:-</u>Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the records pertaining to the impugned rejection of rectification order dated 08.02.2025 in reference No.ZD330225081477C passed by the 2nd respondent and quash the same.

<u>PRAYER in WP No. 25738 of 2025:-</u>Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the records pertaining to the impugned rejection of appeal order dated 28.03.2025 in FORM GST APL-02 passed by the 1st respondent and quash the same

In all W.Ps

For Petitioner(s): Mr.G.Madan

For Respondent(s): Ms.P.Selvi
Government Advocate (taxes)

COMMON ORDER

W.P.No.25733 of 2025 has been filed by the petitioner challenging the impugned assessment order dated 23.04.2024, passed by the 2nd respondent, relating to the relating to the Financial Year 2018-19.

W.P.No.25735 of 2025 has been filed by the petitioner challenging the impugned rejection order dated 08.02.2025, in the rectification application passed by the 2nd respondent, relating to the Financial Year 2018-19.

W.P.No.25738 of 2025 has been filed by the petitioner challenging the impugned appeal rejection order dated 28.03.2025, passed by the 1st respondent, relating to the Financial Year 2018-19.

2.Ms.P.Selvi, learned Government Advocate (Taxes), takes notice on behalf of the respondents.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.Learned counsel appearing for the petitioner would submit that, in the present case, the petitioner have not received any physical copy of the show cause notice and also personal hearing notice. The show cause notice dated 11.10.2023 was uploaded in the GST Portal under "Additional Notices and Orders Tab" and the petitioner had no ocassion to open the GST Portal. Even the impugned assessment order dated 23.04.2024 was also uploaded under "Additional Notices and Orders Tab" which is violation of principle of natural justice.

5.He would further submit that the petitioner after knowing about the impugned assessment order being passed by the 2nd respondent, had filed a rectification application before the 2nd respondent for rectification of the impugned assessment order 23.04.2024. However, the 2nd respondent rejected the application for rectification vide impugned rejection order dated 08.02.2025.

Subsequently, the petitioner preferred an appeal before the 1st respondent by paying 10% statutory deposit of the disputed tax demand. However, the appeal got rejected on the ground of limitation vide order dated 28.03.2025. Hence, the petitioner is ready and willing to pay another 15% of the disputed tax demand in respect of the impugned assessment period and prayed to set aside the impugned orders directing the 2nd respondent to permit the petitioner to file their reply and provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

6.Learned Government Advocate appearing for the respondents would submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of 15% of the disputed tax demand in addition to the 10% deposit already being made by the petitioner in respect of the impugned assessment period, if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.

7.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents and perused the materials available on record.

8.Considering the above submissions made by the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondent 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. 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.

9.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.

10.Therefore, this Court finds that there is a lack of opportunities being provided to the petitioner. Hence, this Court is inclined to set-aside the impugned assessment dated 23.04.2024 and quash the consequential rejection order dated 08.02.2025 passed in rectification application and the appeal rejection order dated 28.03.2025 with terms, by issuing the following directions:-

(i) The impugned assessment order dated 23.04.2024 set aside and the matter is remanded back to the 2nd respondent for fresh consideration on condition that the petitioner deposits 15% of the disputed tax amount in respect of the impugned assessment period in addition to the 10% statutory deposit already made, as agreed by the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(iii) On filing of such reply/objection by the petitioner, the 2nd 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, W.P.No.25733 of 2025 is disposed of and the W.P.Nos.25738 & 25735 of 2025 are allowed. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

16-07-2025

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

To

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KRISHNAN RAMASAMY J.

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AND WP NO. 25735 OF
2025,WP NO. 25738 OF 2025

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