IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.07.2025

Coram:
The Honourable Mr.Justice KRISHNAN RAMASAMY

W.P.No.25662 of 2025
and W.M.P.Nos.28818 & 28819 of 2025

M/s.KG Creations,
represented by its Proprietrix Sarita Sharma,
No.23, KRR Layout Main Road,
Tiruppur – 641 604.

...Petitioner

Versus

The Assistant Commissioner (ST) (FAC),
Tiruppur Central – II Assessment Circle,
No.16, Indira Nagar, 1st Street,
Emperor Textile Building,
Avinashi Road, Tiruppur – 641 603.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the respondent in his proceedings in GSTIN: 33DRHPS3800K1Z0/2020-21, quash the order dated 12.02.2025 passed therein.

For Petitioner	:	Mr.P.V.Sudakar
For Respondent	:	Mr.V.Prashanth Kiran, Government Advocate (Tax)

ORDER

Mr.V.Prashanth Kiran, 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 GSTIN: 33DRHPS3800K1Z0/2020-21 dated 12.02.2025 issued by the respondent.

4. The brief facts of the case are that the petitioner is carrying on business in garments. 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 2020-21, following discrepancies were found by the Officials:

(i) Output Mismatch (GSTR 3B Vs. GSTR 1)

(ii) Input Mismatch (GSTR 3B Vs. GSTR 2A)

(iii) Tax liability due to reverse charge

Hence, the respondent issued Show Cause Notice in GST Form ASMT-10 on 19.10.2024 and thereafter, Show Cause Notice in GST Form DRC-01 on 26.11.2024. However, the petitioner neither raised any objection nor paid the tax due along with interest and penalty. While so, the respondent vide Reminder Notices dated 18.01.2025 & 08.02.2025, called upon the petitioner to appear for personal hearing on 22.01.2025 & 10.02.2025 respectively, but, the petitioner did not appear for personal hearing on the said dates. Hence, the respondent vide Order dated 12.02.2025, directed the petitioner to pay the tax of Rs.4,68,773/- along with interest of Rs.4,06,638/- and penalty of Rs.55,036/-. Thereafter, the respondent vide Notice dated 20.05.2025, attached the petitioner's Bank Account. Aggrieved over the same, the petitioner has filed this writ petition for the relief stated *supra*.

5. The learned counsel for the petitioner submitted that the Show Cause Notice, Reminder Notices and Impugned Order were merely uploaded in "View Additional Notices and Orders" column in GST Portal and the same were not served to the petitioner through physical mode and thus, the petitioner was not aware of the Show Cause Notice, Reminder Notices and Impugned Order. It is submitted that since the petitioner was unaware of the notices issued by the respondent, the petitioner was unable to reply to the same and was also unable to appear for personal hearing.

5.1. It is further submitted by the learned counsel for the petitioner that the Impugned Order which was passed by the respondent is an *ex-parte* order and the same is in violation of the principles of natural justice since prior to the passing of Impugned Order, the petitioner was not heard by the respondent. Therefore, the learned counsel prayed this Court to quash the Impugned Order.

5.2. It is further submitted by the learned counsel for the petitioner that the respondent has initiated the recovery proceedings by attaching the petitioner's Bank Accounts under Section 79 of the TNGST & CGST Act, 2017. It is submitted that the petitioner's Bank Accounts have been freezed, due to which, the petitioner has been put to great hardship.

5.3. The learned counsel for the petitioner also submitted that the petitioner is ready and willing to deposit 25% of the disputed tax, in the event, this Court is inclined to quash the Impugned Orders and remand the case back to the respondent for fresh consideration.

6. The learned Government Advocate (Tax) appearing for the 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.

7. Heard the learned counsel on both sides and perused the materials available on record.

8. The facts on record reveal that the respondent has passed the Impugned Order without even affording any opportunity of hearing to the petitioner. As rightly pointed out by the learned counsel for the petitioner that the Impugned Order passed by the respondent suffers from violation of the principles of natural justice.

9. 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.

10. 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.

11. Once the Impugned Order is passed in violation of the principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit. However, since the petitioner has

voluntarily came forward to deposit 25% of the disputed tax, to which, the learned Government Advocate (Tax) appearing for the respondent is also agreeable, this Court is inclined to issue/pass the following directions/orders:-

(i) The Impugned Order dated 12.02.2025 passed by the respondent is quashed.

(ii) Consequently, the case is remanded back to the respondent for fresh consideration.

(iii) Liberty is granted to the petitioner to deposit 25% of the disputed tax, within a period of two weeks from the date of receipt of a copy of this order.

(iv) Thereafter, the petitioner shall file its Reply along with supporting documents, within a period of two weeks.

(v) On filing of such Reply 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 and thereafter, the respondent shall decide the case in accordance with law, as expeditiously as possible.

(vi) So far as the attachment made in petitioner's Bank Accounts is concerned, it is needless to state that once the impugned Assessment Order is quashed, the order of attachment cannot survive any longer and the same has to be given a go-by by the respondent-Department. On production of proof with regard to the payment of 25% of disputed tax by the petitioner, the respondent shall issue appropriate direction to the petitioner's Bankers to de-freeze the petitioner's Bank Accounts forthwith.

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

15.07.2025

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Index: Yes/No

Speaking Order (or) Non-Speaking Order

To

The Assistant Commissioner (ST) (FAC),
Tiruppur Central – II Assessment Circle,
No.16, Indira Nagar, 1st Street,
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KRISHNAN RAMASAMY, J.

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