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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2025

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

W.P.Nos.25529 & 25531 of 2025
and W.M.P.Nos.28702, 28703, 28704 & 28706 of 2025

Ramesh Babu Kualal Gopalakrishnan,
No.39-A, Tindivanam Road,
Gingee, Viluppuram,
Tamil Nadu – 604 202.

...Petitioner
in both W.Ps

Vs

1.The Deputy State Tax Officer – II,
Gingee Assessment Circle,
No.1, Chetpet Road,
Gingee, Tamil Nadu.

2.The Deputy Commissioner (CT),
No.4, Barathiyar Salai,
Fort Round Road,
Vellore – 632 001.

... Respondents
in W.P.No.25529 of 2025

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1.The Deputy Commissioner (CT) (Appeals),
No.4, Barathiyar Salai,
Fort Round Road,
Vellore – 632 001.

2.The Deputy State Tax Officer – II,
Gingee Assessment Circle,
No.1, Chetpet Road,
Gingee, Tamil Nadu.

... Respondents
in W.P.No.25531 of 2025

Prayer in W.P.No.25529 of 2025:-Writ Petition filed under article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, calling for the records in GSTIN No:33AAUHR4710E1Z5/2019-2020 on the file 1st respondent and quash the impugned order dated 05.08.2024 with the Reference No.ZD330824026021Y for the FY 2019-20 as arbitrary.

Prayer in W.P.No.25531 of 2025:-Writ Petition filed under article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, calling for the records in GSTIN No:33AAUHR4710E1Z5/2019-2020 on the file 1st respondent and quash the impugned appeal rejection dated 02.04.2025 with the Reference No.ZD330425015933K for the FY 2019-20 as arbitrary.

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For Petitioner : Mr.Suryaa.R

For Respondents : Ms.P.Selvi
Government Advocate (T)

COMMON ORDER

W.P.No.25529 of 2025 has been filed by the petitioner challenging the impugned assessment order dated 05.08.2024, passed by the 1st respondent/The Deputy State Tax Officer – II, relating to the Financial Year 2019-20.

W.P.No.25531 of 2025 has been filed by the petitioner challenging the impugned appeal rejection order dated 02.04.2025, passed by the 1st respondent/The Deputy Commissioner (CT) (Appeals), relating to the Financial Year 2019-20.

2.Ms.P.Selvi, learned Government Advocate (T), takes notice on behalf of the respondents. By consent of both parties, the main writ petitions are taken up for disposal at the admission stage itself.

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3.Learned counsel for the petitioner would submit that the petitioner's GST registration certificate was voluntarily cancelled by the respondents' Department vide order dated 18.10.2023, with effect from 01.09.2023. However, the show cause notice dated 30.10.2023 has been uploaded in the GST common portal in the "Additional Notices" tab for the Financial Year 2019-20. Since the petitioner's GST registration was cancelled, there was no requirement for the petitioner to check the GST common portal and there was no other intimation from the respondents' Department regarding the said show cause notice. Therefore, the petitioner was unaware of the issuance of show cause notice and could not file reply to the said show cause notice. Consequently, the *ex parte* impugned assessment order dated 05.08.2024 came to be passed. After getting knowledge about the impugned assessment order being passed, the petitioner preferred an appeal before the Appellate Authority. However, the same got rejected on the ground of limitation.

4.He would further submit that the petitioner is ready and willing to pay 10% of the disputed tax demand in respect of the impugned assessment period

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over and above the 10% statutory pre-deposit made by the petitioner while filing appeal and prayed to set aside the impugned order directing the Assessing Officer 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.

5.Learned Government Advocate appearing for the respondents would fairly submit that the show cause notice dated 30.10.2023, relating to the Financial Year 2019-20 was uploaded in the GST common portal after the cancellation of GST registration and hence, as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of 10% of the disputed tax demand in addition to the 10% pre-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.

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

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7.Considering the submissions made by the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondents, it is evident that the GST registration of the petitioner was cancelled voluntarily by the respondents' department vide order dated 18.10.2023. However, after the cancellation of GST registration certificate, the show cause notice dated 30.10.2023 was uploaded in the GST common portal. In the present case, admittedly no notice was served to the petitioner through any other mode of service. In such circumstances, this Court is of the view that the *ex parte* 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.

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

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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.

9.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 order dated 05.08.2024 and to quash the impugned appeal rejection order dated 02.04.2025, by issuing the following directions:-

(i) The impugned assessment order dated 05.08.2024 is

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set aside and the matter is remanded back to the 1st respondent/The Deputy State Tax Officer -II for fresh consideration on condition that the petitioner deposits 10% of the disputed tax amount over and above the 10% statutory pre-deposit made by the petitioner in respect of the impugned assessment period, as agreed by the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

(ii) Since the impugned assessment order dated 05.08.2024 is set aside, the consequential impugned appeal rejection order dated 02.04.2025 is quashed.

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

(iv) On filing of such reply/objection by the petitioner, the 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

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in accordance with law, after hearing the petitioner, as expeditiously as possible.

10.With the above directions, the writ petition in W.P.No.25529 of 2025 is disposed of and the writ petition in W.P.No.25531 of 2025 is allowed. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

14.07.2025

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

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