IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-07-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 26014 of 2025
AND
WMP NO. 29266 OF 2025,WMP NO. 29267 OF 2025

Tvl.Visa Diesel and Electrical Services PH,
Rep by its Partner, Giridharan Jayanthi,
No.300, CM Complex,
Bye Pass Road, Poonamallee, Chennai,
Tamil Nadu 600 056.

Petitioner(s)

Vs

The State Tax Officer,
No. 4/109 3rd Floor,
Bangalore Chennai Higway,
Varadharajapuram, Nazarathepet,
Chennai 600 123.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorarified Mandamus, calling for the records in GSTIN/33AAGFV8127P1ZL/2017-18 dated 13.12.2023 on the file of the respondent and quash the same as illegal, error of law and error on the face of record and contrary to the provisions of the Goods and Service Tax Act 2017 and direct the respondent to pass orders as per the law.

For Petitioner(s): Ms.Sweety. L

For Respondent(s): Mr.C.Harsha Raj,
Special Government Pleader (t)

ORDER

This writ petition has been filed by the petitioner challenging the impugned assessment order dated 13.12.2023, passed by the respondent relating to the Financial Year 2017-18 and to quash the same.

2.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 21.09.2023 and a reminder was uploaded in the GST Portal tab and the petitioner had no ocassion to open the GST Portal. Even the impugned order dated 13.12.2023 was also uploaded in the GST Portal, which is violation of principle of natural justice. He would further submit that the respondent had already recovered more than 25% of the disputed tax demand in respect of the impugned assessment period from the petitioner's bank account and prayed to set aside the impugned order directing the 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.

3.Learned Special Government Pleader appearing for the respondent would submit that if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.

4.Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the repondent and perused the materials available on record.

5.Considering the above submissions made by the learned counsel for the petitioner as well as the learned Special Government Pleader 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.

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 the petitioner. Hence, this Court is inclined to set-aside the impugned order, by issuing the following directions:-

(i) The order impugned herein is set aside and the matter is remanded back to the respondent for fresh consideration.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks from the date of receipt of a copy of this order.

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

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that, if any attachment has been made on the Bank account of the petitioner, the same cannot survive any longer and hence, it is lifted. The respondent is directed to instruct the Bank to unfreeze the Bank account of the petitioner immediately upon the production of a copy of this order.

8.With the above directions, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

25-07-2025

rst

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

To

The State Tax Officer,
No. 4/109, 3rd Floor,
Bangalore Chennai Higway,
Varadharajapuram, Nazarathepet,
Chennai 600 123.

KRISHNAN RAMASAMY J.

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