IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.07.2025

Coram:
The Honourable Mr.Justice KRISHNAN RAMASAMY

W.P.No.25783 of 2025
and W.M.P.Nos.28982 & 28988 of 2025

Tvl.RKS & Co.,
Rep. by its Proprietor, Mr.Krishnan,
Shop No.1, Bharathiyar Shopping Complex,
AVP Road, Anupparpalayam (PO),
Tiruppur – 641 652.

...Petitioner

Versus

1.Commercial Tax Officer / State Tax Officer,
Gandhi Nagar Assessment Circle,
No.16, Emperor Buildings, Indhira Nagar,
Tiruppur – 641 603.

2.The Branch Manager,
Kotak Mahindra Bank,
Park Avenue, Avinashi Road,
Tirupur – 641 603.

3.The Branch Manager,
Canara Bank,
No.27, First Floor, Kovai Departmental Store Building,
Main Road, Anupparpalayam,
Tirupur – 641 652.

4.The Branch Manager,
Union Bank,
PB No.418, No.192, Mangalam Road,
Tirupur – 641 601.

5.The Branch Manager,
Union Bank,
1st Street, Ganga Nagar, Avinashi Road,
Tiruppur – 641 602.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records pertaining to the proceedings and order bearing Ref.No.ZD330824120832K, GSTIN: 33BJNPK4425QIZP dated 14.08.2024 read with the order bearing No.ZD3303250264394 dated 05.03.2025 issued by the 1st respondent, quash the same and consequently, direct the 1st respondent to lift the attachment of the Bank accounts pertaining to the petitioner bearing Nos.2645024441, 3438101007189, 520101257338000, 520101020553362 held in respondent Nos.2 to 5 bank.

For Petitioner	:	Ms.M.N.Sumathy
For Respondent – 1	:	Ms.P.Selvi, Government Advocate (Tax)

ORDER

Ms.P.Selvi, learned Government Advocate (Tax) takes notice for the 1st 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 Assessment Order dated 14.08.2024 and Order dated 05.03.2025 passed by the 1st respondent and consequently, direct the 1st respondent to lift the attachment of the Bank Accounts pertaining to the petitioner bearing Nos.2645024441, 3438101007189, 520101257338000, 520101020553362 held in the bank of respondents 2 to 5.

4. The brief facts of the case are that the petitioner is a proprietorship firm engaged in the business of mobile recharges, DTH recharge and money transfer. The petitioner has been duly paying the statutory taxes. On scrutinization of the returns filed by the petitioner for the Assessment Year 2019-2020, it was found by the Officials that the petitioner's turnover in GSTR-1 and GSTR-3B lower than the purchases as per GSTR-2A/2B. Hence, the 1st respondent vide Show Cause Notice in Form GST DRC-01 dated 14.05.2024, demanded the petitioner to pay the tax amount of

Rs.13,50,210/- along with applicable interest at 18% and penalty in full and also, called upon the petitioner to file Reply to the Show Cause Notice, within a period of 30 days from the receipt of that notice and to appear for personal hearing on 24.05.2024 at 11.00 a.m.

5. However, the petitioner neither replied to the Show Cause Notice nor appeared for personal hearing. Hence, the 1st respondent has passed the Assessment Order dated 14.08.2024, confirming the proposals in the Show Cause Notice and directing the petitioner to pay a sum of Rs.13,50,210/- towards tax, Rs.10,62,708/- towards interest and Rs.1,35,021/- towards penalty totally amounting to Rs.25,47,939/-.

6. The Show Cause Notice in Form GST DRC-01 dated 14.05.2024 and Assessment Order dated 14.08.2024 were only uploaded under the head “Additional Notices and Orders” in the GST Portal. Hence, the petitioner was not aware of the Show Cause Notice as well as Assessment Order. The petitioner came to know about the Assessment Order dated 14.08.2024 only during the month of December 2024. Immediately, thereafter, the petitioner made a Representation dated 07.01.2024 to the 1st respondent, requesting to

rectify the Assessment Order dated 14.08.2024, but, to which, there was no response from the 1st respondent. Hence, the petitioner filed an Application dated 05.02.2025 to the 1st respondent, seeking to rectify the Assessment Order dated 14.08.2024 and to waive off the interest and penalty for excess claim of ITC for the period 2019-2020.

7. Under these circumstances, the 1st respondent recovered a sum of Rs.1,39,966/- towards SGST on 22.12.2024 and Rs.2,41,467/- towards CGST on 23.01.2025 from the petitioner's ITC. Thus, totally a sum of Rs.3,81,433/- was recovered from the petitioner. That apart, the petitioner's four Bank Accounts were attached pursuant to the instructions of the 1st respondent. Details of the petitioner's Bank Accounts are as follows:

S.No.	**Name of the Bank**	**Bank Account No.**
1	Kotak Mahindra Bank	2645024441
2	Canara Bank	3438101007189 & 65631010001239
3	Union Bank	520101257338000
4	Union Bank	520101020553362

8. Thereafter, the 1st respondent issued a Notice dated 10.02.2025, directing the petitioner to explain the reasons for rectification of Assessment Order dated 14.08.2024, within a period of 15 days from the

date of receipt of that notice and also, directing the petitioner to attend the personal hearing on 20.02.2025 and furnish the following documents:

(i) Outward supply/inward supply details for the FY 2019-2020 (all the purchase and sales invoices with abstract).

(ii) Trading account, profit and loss account and balance sheet with schedules for the Financial Year 2019-2020 (April 2019 to March 2020) maintained as per the Income Tax Act, 1961.

9. Accordingly, the petitioner appeared for personal hearing before the 1st respondent on 20.02.2025 and furnished the aforesaid documents. However, the 1st respondent has passed an Order dated 05.03.2025, rejecting the petitioner's Application for rectification by stating that the petitioner has not filed the said Application within the time limit prescribed under Section 161 of TNGST/CGST Act, 2017 i.e., 3 months from the date of Assessment Order. Aggrieved over the same, the petitioner has filed this writ petition for the relief stated *supra*.

10. The learned counsel for the petitioner submitted that the Show Cause Notice and Assessment Order were merely uploaded in "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 and Assessment Order. It is submitted that since the petitioner was unaware of the Show Cause Notice issued by the 1st respondent, the petitioner was unable to reply to the same and was also unable to appear for personal hearing.

10.1. It is further submitted by the learned counsel for the petitioner that the Assessment Order which was passed by the 1st respondent is an *ex-parte* order and the same is in violation of the principles of natural justice since prior to the passing of Assessment Order, the petitioner was not heard by the 1st respondent. Therefore, the learned counsel prayed this Court to quash the impugned Assessment Order.

10.2. It is further submitted by the learned counsel for the petitioner that the 1st 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.

10.3. 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 1st respondent for fresh consideration.

11. The learned Government Advocate (Tax) appearing for the 1st 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.

12. Heard the learned counsel for the petitioner as well as learned Government Advocate (Tax) for the 1st respondent and perused the materials available on record.

13. The facts on record reveal that the 1st respondent has passed the impugned Assessment 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 Assessment Order passed by the 1st respondent suffers from violation of the principles of natural justice.

14. 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.

15. 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.

16. 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 appearing for the 1st respondent is also agreeable, this Court is inclined to issue/pass the following directions/orders:-

(i) The impugned Assessment Order dated 14.08.2024 and Order dated 05.03.2025 passed by the 1st respondent are quashed.

(ii) Consequently, the case is remanded back to the 1st 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 1st respondent shall consider the same and issue a 14 days clear notice affording an opportunity of personal hearing to the petitioner and thereafter, the 1st 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. Hence, the 1st respondent is directed to issue appropriate direction to the respondents 2 to 5 to de-freeze the petitioner's Bank Accounts forthwith.

17. 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

1.The Commercial Tax Officer / State Tax Officer,
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Tiruppur – 641 603.

2.The Branch Manager,
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