0IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.07.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.26118 of 2025
& W.M.P.Nos.29398 & 29399 of 2025

Balaji Traders
Rep by Sole Proprietor Sathya
No. 37A, Durugam Road,
Mahalakshmi Nagar, Kallakurichi,
Tamil Nadu

... Petitioner

Vs.

1. The Commercial Tax Officer
Kallakuruchi Cuddalore,

2. The State Tax Officer
Office of the Assistant Commissioner (ST),
Kallakurichi, Cuddalore, Tamil Nadu

3. The Deputy Commissioner
Office of the Deputy Commissioner (ST),
No. 103/5, Nepal street, Kallakurichi,
TamilNadu

4. The Prinicipal Commissioner of CGST and
Central Excise, GST Bhawan,
26 1, Mahatma Gandhi Road,
Nungambakkam

...Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the assessment order dated 29.02.2024 vide Order No. 33FZKPS2391E1Z4/2017-18 passed by the 2nd Respondent and quash the same as arbitrary and illegal and consequently remove the notice of recovery under Section 79 TN GST Act, 2017/ CGST Act, 2017 dated 25.06.2025 and remand back the matter to the 1st Respondent for re-assessment

For Petitioner	:	Mr.Dhanaram Ramachandran
For Respondent	:	Ms.Amirtapoonkodidinakaran, GA for R1 to R3 Mr.K.S.Ramaswamy, Sr.St.counsel for R4

ORDER

This writ petition has been filed challenging the impugned order dated 29.02.2024 passed by the respondent.

2. Ms.Amirta Poonkodi Dinakaran, learned Government Advocate,

takes notice on behalf of the respondents 1 to 3 and Mr.K.S.Ramaswamy, learned Senior Standing counsel, takes notice on behalf of the 4th respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in this case, all notices/communications were uploaded by the respondent in the GST common portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the impugned assessment order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Aggrieved over the said assessment order, an appeal was preferred by the petitioner on 03.07.2024, however, the said appeal was neither considered nor disposed of by the respondents till date. At this juncture, a recovery notice dated 25.06.2025 came to be issued by the 3rd respondent. Therefore, this petition has been filed.

4. Further, he would submit that the petitioner has already paid

10% of the disputed tax amount at the time of filing the appeal and now, he is willing to pay 25% of the disputed tax amount, to the respondent. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned order.

5. On the other hand, the learned Government Advocate appearing for the respondents would submit that the respondent had uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, she has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, she requested this Court to remit the matter back to the respondent, subject to the payment of 15% of the disputed tax amount by the petitioner.

6. Heard the learned counsel for the petitioner and and the learned Government Advocate for the respondents and also perused the materials available on record.

7. In the case on hand, it is evident that the show cause notice and subsequent reminders were uploaded on the GST Portal Tab. According to the petitioner, he was not aware of the issuance of the said show cause notice and the reminders issued through the GST Portal and the original of the said show cause notice and reminders were 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.

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 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.

9. 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. Therefore, this Court finds that there is a lack of opportunities being provided to serve the notices/orders etc., effectively to the petitioner.

10. Further, it was submitted by the learned counsel for the petitioner that the petitioner has already paid 10% of the disputed tax amount at the time of filing the appeal and now, he is willing to pay 15% of the disputed tax amount, to the respondent. In such view of the matter, this Court is inclined to set aside the impugned assessment order dated 29.02.2024 passed by the respondent. Accordingly, this Court passes the

following order:-

(i) The impugned order dated 29.02.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 15% of the disputed tax amount to the respondent within a period of four weeks from the date of receipt of a copy of this order. The setting aside of the impugned order will take effect from the date of payment of the said amount.

(ii) Since the impugned assessment order itself is set aside, the appeal dated 03.07.2024 filed by the petitioner has become infructous.

(iii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of payment of amount as stated above.

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

(v) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the recovery notice issued by the 3rd respondent cannot survive any longer and hence, said recovery notice dated 25.06.2025 stands quashed.

11. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

18.07.2025

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

To

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