IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-07-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 26589 of 2025
AND
WMP NO. 29892 OF 2025,WMP NO. 29889 OF 2025,WP NO. 26593 OF 2025,WMP NO. 29895 OF 2025,WMP NO. 29888 OF 2025

M/s.Siemo Service,
Rep by its Partner: Thillairajan Alaganchetty
No.4, NA, Suryaprakasam Street,
Krishnapuram, Ambattur,
Tiruvallur, Tamil Nadu 600 053.

Petitioner in both W.Ps

Vs

Commercial Tax Officer,
Thirumullaivoyal Assessment Circle,
Tiruvallur Division,
Room No.115, No.32, Integrated
Commercial Taxes Office Complex,
Elephant Gate Bridge Road,
Chennai-03.

Respondent in both W.Ps

PRAYER in W.P.No.26589 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the records on the file of the Respondent in respect of the Order u/s 73 in Ref No. ZD330724243512M for the F.Y. 2019-20 with Summary of the order in Form GST DRC-07 along with detailed order in GSTIN 33ABFFS8946R1Z8/2019-20 all dated 20.07.2024 and consequent suo motu Rectification Order in Ref No. ZD331224055953F with summary of Rectification/Withdrawal Order in GST DRC 08 along with revised order GSTIN 33ABFFS8946R1Z8/2019-20 all dated 06.12.2024 and quash the same as illegal, contrary to the provisions of the Act and in violation of principles of natural justice.

PRAYER in WP No. 26593 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the records on the file of the Respondent in respect of the Order passed in Ref No. ZD3302250977653 of the Act for the F.Y. 2020-21 with Summary of the order in Form GST DRC-07 along with detailed order in GSTIN 33ABFFS8946R1Z8/2020-21 all dated 10.02.2025 and quash the same as illegal, contrary to the provisions of the Act and in violation of principles of natural justice.

In both W.Ps

For Petitioner(s): Ms.P.Aruna Chopda

For Respondent(s): Mr.T.N.C.Kaushik,
Additional Government Pleader (t)

COMMON ORDER

W.P.No.26589 of 2025 has been filed by the petitioner challenging the impugned assessment order dated 20.07.2024 and the suo motu rectification order dated 06.12.2024, passed by the respondent, relating to the Financial Year 2019-20.

W.P.No.26593 of 2025 has been filed by the petitioner challenging the impugned assessment order dated 10.02.2025, passed by the respondent, relating to the Financial Year 2020-21.

2.Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes), takes notice on behalf of the respondent.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.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 notices and also personal hearing notices. The show cause notices dated 18.05.2024 & 25.11.2024 for the Financial Years 2019-20 & 2020-21 respectively and reminders were uploaded in the GST Portal tab and the petitioner had no ocassion to open the GST Portal. Even the impugned assessment orders dated 20.07.2024 & 10.02.2025 for the Financial Years 2019-20 & 2020-21 respectively and the impugned suo motu rectification order dated 06.12.2024 for the Financial Year 2019-20 were also uploaded in the GST Portal, which is violation of principle of natural justice. He would further submit that the petitioner is ready and willing to pay 25% of the disputed tax demand, in each case, in respect of the impugned assessment periods and prayed to set aside the impugned orders 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.

5.Learned Additional Government Pleader appearing for the respondent would submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of 25% of the disputed tax demand by the petitioner, in each case, in respect of the impugned assessment periods, 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 appearing for the petitioner as well as the learned Additional Government Pleader appearing for the repondent and perused the materials available on record.

7.Considering the above submissions made by the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondent and upon perusal of the materials, it is evident that the impugned show cause notices were uploaded on the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notices issued through the GST Portal and the original of the said show cause notices were not furnished to them. In such circumstances, this Court is of the view that the impugned assessment orders came to be passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notices.

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. 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 orders with terms, by issuing the following directions:-

(i) The orders impugned herein are set aside on condition that the petitioner deposits 25% of the disputed tax amount, in each case, in respect of the impugned assessment periods, as agreed by the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

(ii) As far as W.P.No.26589 of 2025 is concerned, the 25% deposit shall be paid from the original disputed tax demand made in assessment order dated 20.07.2024.

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

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

23-07-2025

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

To

Commercial Tax Officer
Thirumullaivoyal Assessment Circle,
Tiruvallur Division Room No.115,
No.32, Integrated commercial Taxes
Office Complex, Elephant Gate Bridge
Road, Chennai-03.

KRISHNAN RAMASAMY J.

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