IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 06-08-2025**

CORAM

**THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY**

**WP No. 26555 of 2025**
**AND**
**WMP NO. 29858 OF 2025,WMP NO. 29859 OF 2025**

Tvl.Sri Associates,
Rep. by its Managing Partner, Mr.P.Prakash,
145, Tagore Street, Dadagapatty,
Salem-636 006.

Petitioner(s)

Vs

Deputy State Tax Officer 2,
(also known as Commercial Tax Officer),
Annathanapatty, Salem.

Respondent(s)

**PRAYER:-**Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, calling for the records on the files of the Respondent herein in FORM GST DRC-07 with Reference No.

ZD3310240008780 along with detailed order in GSTIN-33ACLFS2288M1ZJ dated 01.10.2024 for the tax period 2021-22 and quash the same.

For Petitioner : Mr.N.Chandirasekar
For Respondent : Mrs.K.Vasanthamala
Government Advocate

**ORDER**

Heard Mr.N.Chandrasekar, learned counsel appearing for the petitioner and Mrs.K.Vasanthamala, learned Government Advocate (T) who takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2.The challenge in this Writ Petition is to the order passed by the respondent dated 01.10.2024 for the tax period 2021-22 and to quash the same.

3.The learned counsel for the petitioner would submit that the show cause notice was uploaded in the GST notices tab, under the Additional Notices/Orders" tab, which was unknown to the petitioner, hence, the act of non-responding to the show cause notice and not participating in the assessment proceedings is neither wilful not wanton, but, purely owing to the fact that the petitioner was totally not aware of the show cause notice and reminders being uploaded in the Portal, but, the respondent, without even affording of an opportunity of personal hearing, passed the impugned order.

3.1.Hence, the learned counsel for the petitioner contended that the impugned assessment order passed by the respondent suffers from violation of principles of natural justice and is liable to be aside. However, it is stated by the learned counsel for the petitioner that the petitioner is ready and willing to pay 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remands the matter back to the Authority for fresh consideration and thus, prays for appropriate orders.

4.The learned Government Advocate (T) appearing for the 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.

5.I have given due considerations to the submissions made on either side and perused the materials available on record.

6.Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notice and reminders were not directly served on the petitioner through physical mode of service but was only uploaded on the GST Portal Tab, under the 'Additional Notices/Orders'tab. 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.

6.1 No doubt, sending notice by uploading in 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 GST Act, which are also the valid mode of service under the Act, otherwise, the service of notice will not be deemed to 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 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 Act, preferably by way of RPAD, which would ultimately achieve the object of the GST Act.

6.2 Therefore, this Court is inclined to set aside the impugned orders, as the same suffers from the violation of principles of natural justice. Thus, once the order is passed in violation of principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit, however, considering the fact that the petitioner has come forward to deposit 25% of the disputed tax in the event the impugned order is set aside, this Court is inclined to pass/issue the following orders/directions:-

(i) The order impugned herein is set aside and the matter is remanded back to the respondent for fresh consideration on condition that the petitioner deposits 25% of the disputed tax amount 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) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(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.

7.In the result, the Writ Petition is disposed of on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

**06-08-2025**

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

To

Deputy State Tax Officer 2,
(also known as Commercial Tax
Officer), Annathanapatty, Salem.

**KRISHNAN RAMASAMY J.**

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