IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.07.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.26500 of 2025
& W.M.P.Nos.29799 & 29802 of 2025

U -smile Private Limited
Rep by its Managing Director Mr. Sulaiman
92, D5, OMR Food Street, OMR Road,
Navalur, Chennai - 603103

... Petitioner

Vs.

1. Union Of India
Rep By The Secretary Of Government Of India,
Ministry Of Finance, New Delhi-110 001

2. The director
Central Board of Indirect Taxes and Customs
1st Floor Tower NBCC Plaza-1 Sector 5,
Pushp Vihar New Delhi- 110017.

3. The Deputy State Tax Officer 1
KELAMBAKKAM Assessment Circle.
Chengalpettu Zone, Chengalpettu,
Tamilnadu

...Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of Notification No.56/2023-Central Tax dt.28.12.2023 issued by the 2nd respondent consequential culminating the Impugned Assessment Order dated 21.08.2024 issued by the 3rd respondent in GSTIN. No. 33AABCU9514H1ZD /2019-20 and its consequential directions and Orders and quash the same as arbitrary and ultra-virus

For Petitioner : Mr.A Abdul Rahman

For Respondent : Mr.Sai Srujan Tayi, SPC
& Ms.Pooja Jain, JPC For R1
Mrs.K.Vasanthamala, GA for R2 & R3

ORDER

This writ petition has been filed challenging the impugned notification dated 28.12.2023 and the consequential impugned order dated 21.08.2024 passed by the respondent.

2. Mr.Sai Srujan Tayi, learned Senior Panel Counsel, takes notice on behalf of the 1st respondent and Ms.K.Vasanthamala, learned Government Advocate, takes notice on behalf of the respondents 2 & 3.

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 order came to be passed by the respondent without providing any opportunity of personal hearing to the petitioner. Therefore, this petition has been filed.

4. Further, he would submit that the petitioner is willing to pay 25% of the disputed tax amount, to the respondent. He would also submit that he is not pressing on the aspect of challenge made against the Notification No.56/2023 dated 28.12.2023. 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 Senior Standing counsel and 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, they had fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, they requested this Court to remit the matter back to the respondent, subject to the payment of 25% of the disputed tax amount as agreed by the petitioner.

6. Heard the learned counsel for the petitioner and the learned Senior Standing counsel 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 was uploaded on the GST Portal Tab. According to the petitioner, he was not aware of the issuance of the said 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.

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 is willing to pay 25% of the disputed tax amount to the respondent. In such view of the matter, this Court is inclined to set aside the impugned order dated 28.12.2023 passed by the 3rd respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 28.12.2023 is set aside and the matter is remanded to the 3rd respondent for fresh consideration on condition that the petitioner shall pay 25% 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) 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.

(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.

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

22.07.2025

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

To

1. Union Of India
Rep By The Secretary Of Government Of India,
Ministry Of Finance, New Delhi-110 001

2. The director
Central Board of Indirect Taxes and Customs
1st Floor Tower NBCC Plaza-1 Sector 5,

Pushp Vihar New Delhi- 110017.

3. The Deputy State Tax Officer 1
KELAMBAKKAM Assessment Circle.
Chengalpettu Zone, Chengalpettu,
Tamilnadu

KRISHNAN RAMASAMY.J.,

nsa

W.P.No.26500 of 2025
& W.M.P.Nos.29799 & 29802 of 2025

22.07.2025