IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-07-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 26696 of 2025
AND
WMP NO. 30015 OF 2025,WMP NO. 30020 OF 2025,WMP NO. 30018 OF 2025,WMP NO. 30019 OF 2025

Tvl.Samithra Agencies,
Represented by its Partner
Mrs.A.Sowmiya,
No.10, Thilak Street, T Nagar,
Chennai-600017, Tamilnadu.

Petitioner(s)

Vs

1. Commercial Tax Officer/State Tax Officer,
Pondy Bazaar Assessment Circle,
46-III Floor, Greenways Road, Chennai -600028.

2.Deputy Commissioner(ST),
Central-III, No. 1, Greams Road,
Chennai -600006.

3.Branch Manager,
Indian Bank, No. 21, North Mada Street,
Mylapore, Chennai -600004.

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 file of the First Respondent and quash the Impugned Show Cause Notice under section 73(1) of the Tamil Nadu Goods and Service Tax Act, 2017/Central Goods and Service Tax Act, 2017 in Reference No. ZD331023030241D dated 06.10.2023 issued by the First Respondent and Consequent Impugned order under section 73 of the Tamil Nadu Goods and Service Tax Act, 2017/Central Goods and Service Tax Act, 2017 having GSTIN 33ABGFS7857Q1Z9 dated 18.03.2024 along with Summary of the Order in Form GST DRC 07 dated 18.03.2024 First Respondent having Reference No. ZD330324109604S passed by the First Respondent for the FY 2018-19.

For Petitioner(s): Mr.N.V.Narayanan

For Respondent(s): Mr.T.N.C.Kaushik,
Additional Government Pleader (t)
For R1 And 2

ORDER

This writ petition has been filed by the petitioner challenging the impugned show cause notice dated 06.10.2023 issued by the 1st respondent and the impugned assessment order dated 18.03.2024, passed by the 1st respondent relating to the Financial Year 2018-2019 and to quash the same.

2.Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes), takes notice on behalf of the respondents 1 and 2 .

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 notice and also personal hearing notice. The show cause notice dated 06.10.2023 and two reminders were uploaded in the GST Portal tab and the petitioner had no ocassion to open the GST Portal. Even the impugned order dated 18.03.2024 was 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 respect of the impugned assessment period and prayed to set aside the impugned order directing the 1st 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 respondents 1 and 2 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 respect of the impugned assessment period, 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 repondents 1 and 2 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 respondents 1 and 2 and upon perusal of the materials, it is evident that the impugned show cause notice was uploaded on the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the 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. 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 order with terms, by issuing the following directions:-

(i) The impugned order dated 18.03.2024 is set aside 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) As regards the prayer challenging the show cause notice dated 06.10.2023 is concerned, the learned counsel for the petitioner expressed that he is not pressing the same and hence, the prayer regarding the show cause notice dated 06.10.2023 is rejected and the petitioner is directed to raise all those issues before the Assessing Officer.

(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.

(v) Upon production of proof with regard to the payment of 25% of the disputed tax demand, the 3rd respondent-Bank is directed to de-freeze the petitioner's bank account forthwith.

10.With the above directions, the writ petition is 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

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KRISHNAN RAMASAMY J.

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