IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-07-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 26748 of 2025
AND WMP NO. 30055 OF 2025,WMP NO. 30053 OF 2025

Tvl.Sanma Knit Fashions,
GSTIN. 33ABFFS7425R1ZK
173/3 1/244F Sri Ragavendhara Thottam
Kalampalayam, Pongupalayam PO,
Tiruppur 641 666.

Petitioner(s)

Vs

Assistant Commissioner (ST),
Anupparapalayam Assessment Circle,
Ground floor, Emperor Building
No.16, Indira Nagar 1st Street,
Avinashi Road, Tiruppur- 641 603.

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, seeking to quash the impugned detailed Order No. 33ABFFS7425R1ZK/2020-2021 along with the summary order bearing DRC 07 Reference No. ZD3301252091019 dated 24.01.2025and 23.01.2025 , passed by the Respondent as being arbitrary and not sustainable.

For Petitioner(s): Ms.N.Asmitha

For Respondent(s): Ms.Amirta Poonkodi Dinakaran,
Government Advocate (t)

ORDER

This writ petition has been filed by the petitioner challenging the impugned assessment orders dated 24.01.2025 & 23.01.2025, passed by the respondent relating to the Assessment Year 2020-21 and to quash the same.

2.Ms.Amirta Poonkodi Dinakaran, learned Government Advocate (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 notice and also personal hearing notice. The show cause notice dated

23.11.2024 and two reminders were uploaded in the GST Portal tab and the petitioner had no ocassion to open the GST Portal. Even the impugned orders dated 24.01.2025 & 23.01.2025 were also uploaded in the GST Portal, which is violation of principle of natural justice. He would further submit that the petitioner had already remitted 48% of the disputed tax demand in respect of the impugned assessment period and prayed to set aside the impugned order 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 Government Advocate appearing for the respondent would submit that 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 Government Advocate 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 Government Advocate appearing for the respondent 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 orders 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 orders, by issuing the following directions:-

> (i) The orders impugned herein are set aside and the matter is remanded back to the respondent for fresh consideration.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks from the date of receipt of a copy of this order.

(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.

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.

24-07-2025

rst

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

To

Assistant Commissioner (ST),
Anupparapalayam Assessment Circle,
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KRISHNAN RAMASAMY J.

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