IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.Nos.26805 of 2025 and
WMP.Nos.30133,30135 and 30136 of 2025

Munusamy Sathish Kumar,
Proprietor of M/s.GREEN LEAF,
16/132, Bharathi Nagar, East Street,
Sharma Nagar, Chennai,
Tamil Nadu 600039. .... Petitioner

..Vs..

1. The State Tax Officer
(Formerly known as Commercial Tax Officer),
Villivakkam Assesment Circle
No. 1, PAPJM Building (Annex)
2nd Floor, Greams Road,
Chennai 600 006.

2.The Branch Manager,
Canara Bank,
Trinity Towers, First Floor, 4 KKR Nagar, Madhavaram High Road,
Madhavaram, Chennai 600 060.

Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for records in Reference Number ZD330225133791N DATED 14.02.2025 on the file of the 1st respondent and quash the same as contrary to law, and further directing the 1st Respondent direct to de-freeze the Bank Account No 61182600002192 and remit back the amount of Rs. 1,18,111/- which was debited from the Petitioners savings bank account on 24.06.2025.

For Petitioner : Mr.Sundaravadivelu Velu

For 1st Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader (Taxes)

Order

Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes) takes notice on behalf of the respondents. 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 assessment order dated 14.02.2025 passed by the 1st respondent and to quash the same and direct the 1st respondent to defreexe the petitioner's savings bank account No.61182600002192 and remit back the amount of Rs. 1,18,111/- which was debited from the Petitioners savings bank account on 24.06.2025.

3. The learned counsel for the petitioner would submit that the 1st respondent has issued a show cause notice on 26.11.2024 to the petitioner by uploading the same in the GST portal, without serving the physical copy of the same to the petitioner. Therefore, the petitioner was not aware of the same and failed to submit its reply. Since the petitioner failed to file reply to the said show cause notice, the 1st respondent has confirmed the proposals contained in the show cause notice and passed the present impugned assessment order dated 14.02.2025. Subsequently, the petitioner filed the rectification application before the 1st respondent and the same was rejected. Further, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order.

3.1. It is also submitted by the learned counsel for the petitioner that already a sum of Rs. 1,18,111/- has been recovered from the the petitioner's bank account and is ready and willing to deposit the balance amount out of 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remand the matter back to the Authority for fresh consideration.

4. The learned Additional Government Pleader (Taxes) for the respondents fairly submitted that since the petitioner has voluntarily come forward to deposit 25% of the disputed tax (by deducting the amount already recovered), the prayer sought for by the petitioner may be considered. He would further submit that there is bank attachment and the same may be lifted, subject to the payment of 25% of the disputed tax (less the amount already recovered). Hence, he prayed for appropriate directions.

5. 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 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.

6. 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.

7. Therefore, this Court finds that there is a lack of opportunities being provided to serve the notices/orders etc., effectively to the petitioner. 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. Hence, this Court is inclined to set-aside the impugned orders with terms, by issuing the following directions:-

i) The impugned order passed by the 1st respondent dated 14.02.2025 is set aside.

ii) Consequently, the matter is remanded to the 1st respondent for fresh consideration.

iii) The petitioner is granted liberty to deposit 25% of the disputed tax (less the amount already deposited), which the petitioner themselves had voluntarily came forward to make such payment, within a period of two weeks from the date of receipt of a copy of this order.

iv) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

v) Thereupon, the 1st respondent is directed to consider the reply and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

vi) Upon production of proof with regard to the payment of 25% of the disputed tax (including the amount already recovered) made by the petitioner, the first respondent-Department is directed to issue appropriate direction on the petitioner's banker towards de-freezure of the petitioner's bank account forthwith.

8. With the above observations & directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

24.07.2025

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Index : yes/no
Neutral Citation : yes/no

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Krishnan Ramasamy,J.,

arr

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