IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.27171 of 2025
and
W.M.P.Nos.30489 & 30490 of 2025

Tvl.S.Radhakrishnan ...Petitioner

Vs.

State Tax Officer
(Also known as Laximi Street,
Fairlands)
Salem-636004. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari on the files of the Respondent herein in FORM GST DRC-07 with reference no: ZD331224191166J dated 23.12.2024 along with detailed order in GSTIN: 33AATPR1108B1Z1 dated 28.12.2023, for the tax period 2017-18 and quash the same.

For Petitioner : Mr.N.Chandrasekar

For Respondent : Mrs.K.Vasanthamala
Government Advocate (Taxes)

Order

Mrs.K.Vasanthamala, learned Government Advocate (Taxes), 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 dated 23.12.2024 passed by the respondent for the AY 2017-18 and to quash the same.

3. The learned counsel for the petitioner would submit that the respondent issued a show cause notice in Form DRC 01 on 31.07.2024 followed by reminders dated 24.09.2024 and 06.12.2024 to the petitioner by uploading the same in the GST portal without serving physical copy of the same to the petitioner. Therefore, the petitioner was not aware of those notices and failed to file reply to those notices. Since the petitioner failed to file reply to the said show cause notice, the respondent has confirmed the proposals contained in the show cause notice and passed the present impugned order. Therefore, 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 the petitioner has already deposited 50% of the disputed tax amount before the respondent.

4. The learned Government Advocate (Taxes) for the respondent submitted that despite show cause notice followed by reminders being issued to the petitioner, the petitioner failed to submit its reply and hence impugned assessment order came to be passed. As far as the contention of the petitioner with regard to payment of 50% of the tax liability is concerned, the learned Government Advocate (Taxes) would submit that appropriate orders may be passed subject to verification. .

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.

i) The impugned order passed by the respondent dated 23.12.2024 is set aside.

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

iii) The petitioner is directed to file a reply along with supportive documents within a period of two weeks.

v) Thereupon, the 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) The Respondent is at liberty to recover entire 25% of disputed tax liability in case, if no amount has been recovered from the petitioner as stated by the learned counsel for the petitioner.

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

25.07.2025

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Index : yes/no
Neutral Citation : yes/no

To

State Tax Officer
(Also known as Laxími Street,
Fairlands)
Salem-636004.

Krishnan Ramasamy,J.,

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W.P.No.27171 of 2025

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