IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 25.07.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.27366 of 2025
and
W.M.P.Nos.30723 & 30724 of 2025

Tvl Sambandam Senthilkumar
Preethi and preeth agencies
Represented by its proprietor
Senthilkumar No.929/12A NA
Main Road Dharmakulam
Poompuhar. Tamil Nadu 609 105. ...Petitioner

Vs.

The Deputy State Tax Officer
Office of the Deputy Commercial Tax officer
Sirgali Assessment Circle Sirgali
Mailaduthurai Tamil Nadu ...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records relating to the impugned proceedings passed by the Respondent in the Order vide GSTIN : 33BREPS5433H1ZR/2017-18 dated 04.04.2024 along with consequential proceeding under under section 74 of the act in Form GST DRC -07 vide reference number ZD330424038094P dated 0404.2024 for the FY 17 -18 and to quash the same and pass

For Petitioner : M/s.G.Vardhini Karthick
for M/s.R.Hemalatha

For Respondent : Mr.C.Harsha Raj,
Special Government Pleader (T)

Order

Heard M/s.G.Vardhini Karthick learned counsel appearing for the petitioner and Mr.C.Harsha Raj, learned Special Government Pleader (T) who 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 passed by the respondent dated 04.04.2024 along with consequential proceeding under under section 74 of the Act in Form GST DRC -07 dated 04.04.2024 for the FY 17 -18 and to quash the same.

3. The learned counsel appearing for the petitioner would submit that all the communications, viz., show cause notice/three reminder notices were made available via. Portal; that the petitioner, being a small dealer, did not noticed the same, however, the respondent passed the impugned order without even affording an opportunity of personal hearing to the petitioner.

3.1 Therefore, the learned counsel contended that the impugned assessment order passed by the respondent is as an ex parte order, as it suffers from violation of principles of natural justice and liable to be set aside. However, he fairly submitted that, in the event, this Court is inclined to set aside the impugned order, the petitioner is ready and willing to deposit 25% of the disputed tax, and hence, prays for setting aside the impugned order and remanding the matter back to the respondent for fresh consideration.

4. The learned Special Government Pleader (T) for the respondent fairly submitted that since the petitioner has voluntarily come forward to deposit 25% of the disputed tax, the prayer sought for by the petitioner may be considered.

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 and reminders were uploaded in the GST common Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notice. Further, the original of the said show cause notice was not furnished to the petitioner in person. 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.

5.1 No doubt, sending notice by uploading in portal is a sufficient service, but, the Officer who finds no response from the petitioner to the show cause notice, 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, the service of notice will not be deemed to 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 would 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.

6. Therefore, this Court is inclined to set aside the impugned order, as the same suffers from the violation of principles of natural justice. Thus, once the order is passed in violation of principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit, however, considering the fact that the petitioner has come forward to deposit 25% of the disputed tax in the event the impugned order is set aside, to which course, the learned Special Government Pleader (T) is also agreable, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order passed by the respondent dated 04.04.2024 and the consequential proceedings dated 04.04.2024 are set aside.

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

iii) The petitioner is granted liberty to deposit 25% of the disputed tax, which the petitioner themselves have 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 respondent is directed to consider the reply and shall issue a 14 clear days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

25.07.2025

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To
The Deputy State Tax Officer

Office of the Deputy Commercial Tax officer
Sirgali Assessment Circle Sirgali
Mailaduthurai Tamil Nadu

Krishnan Ramasamy,J.,

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W.P.No.27366 of 2025

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