IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-08-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 27957 of 2025
AND
WMP NO. 31346 OF 2025,WMP NO. 31348 OF 2025,WMP NO. 31354 OF 2025,WMP NO. 31356 OF 2025,WP NO. 27962 OF 2025

M/s.Jabind Manufacturing India Pvt. Ltd.,
Represented by its Director,
Mr. Surya Ramnath,
Having office at No33, Metukupam Road,
Madhuravayal, Thiruvallur,Tamil Nadu 600 095.

Petitioner in both W.Ps

Vs

Assistant Commissioner (ST),
Vanagaram Assessment Circle,
Integrated CT Building No. 4/109,
Chennai Bangalore Highways,
Varadharajapuram Nazarethpet,
Poonamalle 600 123.

Respondent in both W.Ps

PRAYER in W.P.No.27957 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorarified

Mandamus, to call for the records in the order dated 12.11.2024 bearing Reference No ZD3311240798747 on the file of the Respondent herein and quash the same as illegal and consequently direct the Respondent to de-freeze the Petitioners account bearing number 000905029342 held with ICICI Bank Limited, 110, Prakash Presidium, Uthamar Gandhi Salai, Nungambakkam High Court, Chennai, 600034.

PRAYER in WP No. 27962 of 2025:- Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the records in the order dated 05.02.2025 bearing Reference No ZD330225039628D, on the file of the Respondent herein and quash the same as illegal.

In both W.Ps

For Petitioner(s): Ms.T.Gayatri

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

COMMON ORDER

W.P.No.27957 of 2025 has been filed by the petitioner challenging the impugned assessment order dated 12.11.2024, passed by the respondent relating to the Financial Year 2021-22 and to quash the same.

W.P.No.27962 of 2025 has been filed by the petitioner challenging the impugned assessment order dated 05.02.2025, passed by the respondent relating to the Financial 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 notices dated 11.01.2024 & 25.11.2024 for the Financial Years 2021-22 & 2020-21 respectively and a reminder were uploaded in the GST Portal tab and the petitioner had no ocassion to open the GST Portal. Even the impugned orders dated 12.11.2024 & 05.02.2025 were also uploaded in the GST Portal, which is violation of principle of natural justice. He would further submit that the respondent had already remitted the entire disputed tax demand and prayed to set aside the impugned orders 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 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 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.

(iv) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that, if any attachment has been made on the Bank account of the petitioner, the same cannot survive any longer and hence, it is lifted. The respondent is directed to instruct the Bank to unfreeze the Bank account of the petitioner immediately upon the production of a copy of this order.

10.With the above directions, these writ petitions are disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

01-08-2025

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

To

Assistant Commissioner (ST),
JVanagaram Assessment Circle,
Integrated Ct Building No. 4/109
Chennai Bangalore Highways,
Varadharajapuram Nazarethpet,
Poonamalle 600 123.

KRISHNAN RAMASAMY J.

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