IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 25.07.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.27388 of 2025
and
W.M.P.Nos.30745, 30747 & 30748 of 2025

Sri Ragavendra Construction
Rep. by its Partner S.Gunasekaran. ..Petitioner

Vs.

1 STATE TAX OFFICER
THIRUVANNAMALAI-II ASSESSMENT CIRCLE
INTEGRATED COMMERCIAL TAX OFFICE VENGIKKAL
THIRUVANNAMALAI 606 604.

2 Deputy Commissioner (ST)
Thiruvannamalai CT District
Integrated Commercial Taxes Building, Collectorate
Master Plan Complex, Vengikkal
Thiruvannamalai-606 604. Respondents

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 on the file of the 1st Respondent in issuing the Impugned Order bearing Ref No. ZD330225242826G dated 24.02.2025 for the Financial Year 2020 to 21 to quash the same as arbitrary illegal and devoid of merit and further direct the 1st Respondent to grant an opportunity to the Petitioner to make its submissions and direct the 2nd Respondent to de freeze the accounts of the Petitioner and its Partners

For Petitioner	:	M/s. S.Shruthikka
For Respondent	:	Mr.T.N.C.Kaushik Additional Government Pleader (T)

Order

Heard M/s. S.Shruthikka learned counsel appearing for the petitioner and Mr.T.N.C.Kaushik, learned Additional Government Pleader (T) for 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 1st Respondent dated 24.02.2025 and to quash the same.

3. The learned counsel appearing for the petitioner would submit that the respondent has merely uploaded the show cause notice in the GST Portal, under the head, "View Additional Notices and Orders", which was unnoticed by the petitioner. Further, it is the contention of the learned counsel for the petitioner the statutory notice that was uploaded in the GST Portal cannot be deemed to be a proper service of notice and only notice issued in terms of the provisions contemplated under Section 169 of the CGST Act, i.e. by physical mode, can be deemed to be sufficient service. Therefore, the learned counsel contended that the impugned assessment order passed by the first respondent is unsustainable as the same suffers from violation of principles of natural justice. 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 first respondent for fresh consideration.

4. The learned Additional Government Pleader (T) for the respondents 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, under the 'Additional Notices and Orders". 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 Additional Government Pleader (T) is also agreable, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order passed by the first respondent dated 24.02.2025 is set aside.

ii) Consequently, the matter is remanded to the first 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 first 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.

vi) So far as the bank attachment order is concerned, upon production of proof with regard to the payment of 25% of the disputed tax made by the petitioner, respondent-Department is directed to issue appropriate direction on the petitioner's banker towards de-freezure of the petitioner's bank account forthwith and permit the petitioner to operate the bank account.

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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Index : yes/no
Neutral Citation : yes/no

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Krishnan Ramasamy,J.,

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