IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 06-08-2025**

CORAM

**THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY**

**WP No. 27915 of 2025**
**AND**
**WP NO. 25777 OF 2025,WMP NO. 28975 OF 2025,WMP NO. 31286 OF 2025,WMP NO. 28976 OF 2025,WMP NO. 31287 OF 2025**

M/s. ABS Fujitsu General Pvt Ltd.,
Rep. by its General Manager-N.Venkatakrishnan,
No. 184-187, Temple Stones, Block No A, Unit- A,
4th floor Anna Salai, Little Mount, Chennai -600 015.

Petitioner in both W.Ps

Vs

1.The Assistant Commissioner (ST) (FAC),
Kodambakkam Assessment Circle,
PAPJM Building Annex, IV Floor, No.4, Greams Road, Chennai-600 006.

2.The Deputy Commissioner of State Tax
(GST Appeals),
Office of the Deputy Commissioner of State Tax,
3rd floor, C.T. Annexe Building, No. 4,
Greams Road, Chennai 600 006.

Respondents in both W.Ps

**<u>PRAYER in WP No. 27915 of 2025:-</u>**Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorarified Mandamus, calling for the records on the files of the 2nd Respondent herein in the impugned appeal rejection order APL-02 dated 06.05.2025 bearing ARN No. AD3307230344095 to quash the same and to direct the 2nd Respondent to condone the delay in filing of appeal.

**<u>PRAYER in WP No. 25777 of 2025:-</u>**Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorarified Mandamus, calling for the records on the files of the 1st Respondent herein in GSTIN 33AAFCA1594D1Z1 dated 02.12.2020 for the financial year 2017-2018 and quash the same, and to direct the 1st Respondent to pass DE NOVO order.

**In both W.Ps**

For Petitioner: Ms.Lavanya P.R.

For Respondent: Mrs.K.Vasanthamala
Government Advocate

**COMMON ORDER**

These writ petitions have been filed by the petitioner challenging the impugned assessment orders dated 02.12.2020, passed by the 1st respondent and the appeal rejection order dated 06.05.2025, passed by the 2nd respondent, relating to the Financial Year 2017-18 and to quash the same.

2.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 notice dated 14.12.2019 was uploaded in the GST Portal in "view additional notices and orders" tab and the petitioner had no ocassion to open the GST Portal. Even the impugned assessment order dated 02.12.2020 was also uploaded in the GST Portal in "view additional notices and orders" tab, which is violation of principle of natural justice.

3.He would further submit that in the show cause notice dated 14.12.2019, there was no mention about the penalty. However, in the impugned assessment order dated 02.12.2020, the 1st respondent had demanded for penalty. After getting knowledge about the impugned assessment order, the petitioner preferred an appeal and the same got rejected on the ground of limitation. Therefore, he prayed to set aside the impugned orders directing the 1st 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.

4.Learned Government Advocate appearing for the respondents would submit that since no reply was filed by the petitioner, the *ex parte* impugned assessment order came to be passed and she would further submit that if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.

5.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the repondents and perused the materials available on record.

6.Considering the above submissions made by the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondents 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.

7.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.

8.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 assessment order dated 02.12.2020, passed by the 1st respondent and quash the impugned appeal rejection order dated 06.05.2025, passed by the 2nd respondent, by issuing the following directions:-

(i) The impugned assessment order dated 02.12.2020 is hereby set aside and the matter is remanded back to the 1st respondent for fresh consideration.

(ii) Since the impugned assessment order dated 02.12.2020 is set aside and remanded back to the 1st respondent, the impugned appeal rejection order dated 06.05.2025 is quashed.

(iii) 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.

(iv) 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.

9.With the above directions, the writ petitions in W.P.No.25777 of 2025 is disposed of and W.P.No.27915 of 2025 is allowed. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

**06-08-2025**

rst

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

To

1.The Assistant Commissioner (ST)(FAC),
Kodambakkam Assessment Circle,
PAPJM Building Annex, Iv Floor, No.4,
Greams Road, Chennai-600 006.

2.The Deputy Commissioner of State Tax
(GST Appeals),
Office of the Deputy Commissioner of State Tax,
3rd floor, C.T. Annexe Building, No. 4,
Greams road, Chennai 600006.

**KRISHNAN RAMASAMY J.**

rst

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AND

WP NO. 25777 OF 2025

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