IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2025

CORAM:

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.28105 of 2025
and
W.M.P.Nos. 31519 & 31520 of 2025

Tvl. G.B.Constructions,
GSTIN:33AAOFG7994H1ZS
Represented by its Partner G.Kavitha
13/A-2, Senni Malai Layout, Uppilipalayam,
Coimbatore – 641 015. ... Petitioner

Vs.

The Deputy State Tax Officer – I,
Singanallur North Assessment Circle,
Commercial Tax Building,
Dr.Balasundaram Road,
Coimbatore – 641 018. ... Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, for issuance of Writ of Certiorari to call for the records pertaining to the impugned order in Form GST DRC 07 bearing reference No.ZD3304242410330/2018-19 dated 29.04.2024 issued by the sole Respondent and quash the same.

For Petitioner : Mr.C.Derrick Sam

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

O R D E R

This writ petition has been filed challenging the impugned order dated 29.04.2024 passed by the respondent.

2. The learned counsel for the petitioner submitted that in the present case, show cause notice was issued on 22.01.2024 and subsequently, there were two notices for personal hearing uploaded on the portal. All the notices were uploaded and the additional notices were also issued. Therefore, on those occasions, they used to file the monthly forms on different claims. He further submitted that the respondent issued the notice by way of other modes, which are available in terms of provisions of Section 169 of the GST Act. Therefore, he further submitted that the impugned orders suffer from violation of principles of natural justice and are liable to be set aside. Though the order was passed on 29.04.2024, the said order came to the knowledge of the petitioner only in the last week of June, 2025 and the respondent's office called the petitioner over phone and informed the assessment. Thereafter, immediately, the petitioner filed a Writ Petition to set aside the impugned order.

3. On the other hand, the learned Government Advocate (Taxes) for the respondent submitted that in the present case, no reply was received from the petitioner, inspite of issuance of two notices and she further submitted that in the facts and circumstances of the case, appropriate orders may be passed. In the event, this Court is inclined to remand this matter back to the respondent, the same may be subject to the payment of 25% of the disputed tax.

4. In reply, the learned counsel for the petitioner submitted that they are ready to deposit 25% of the disputed tax.

5. Considering the submissions made by the petitioner as well as the respondent, it is seen that admittedly, in the present case, the assessment order passed was an ex-parte order. The respondent after issuance of notice under DRC-01 on 22.01.2024, issued two more reminders to the petitioner. However, all the notices were uploaded in the GST portal. Therefore, the the petitioner cannot take such a plea that they were not aware of issuance of such notice, when the legal mode of service was effected by the respondent and the same would be considered

with sufficient means. At the same time, the learned Government Advocate (Taxes) also submitted that when they have issued reminder notice as well as original notice, no response is received and there is a possibility of sending notice through other legal mode of service as provided in Section 169 of GST Act and the respondent passed the ex-parte order by uploading the document after knowing the fact that no reply was filed by the petitioner. According to the respondent, it would be a fictitious exercise in sending notice by other mode and at any cost, the same order will be challenged on the aspect of violation of principles of natural justice. If the respondent is not able to effect its service in one mode and not received any response, they have to explore the possibility of sending notice through other mode, particularly, RPAD. This Court is of the view that the ex-parte assessment order was passed without providing sufficient mode of service to the petitioner and such an order is a violation of principles of natural justice and the same is liable to be set aside.

6. Accordingly, this Court passes the following order:-

(i) The impugned order dated 29.04.2024 is set aside subject to the payment of 25% disputed tax and the matter is remanded to the respondent for fresh consideration.

(ii) The petitioner shall file his 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 pass appropriate orders on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner, as expeditiously as possible.

7. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

01.08.2025

dh
Index: Yes/No
Internet: Yes/No
Speaking Order/Non-speaking order

To
The Deputy State Tax Officer – I,
Singanallur North Assessment Circle,
Commercial Tax Building,
Dr.Balasundaram Road,
Coimbatore – 641 018.

KRISHNAN RAMASAMY, J.

dh

W.P.No.28105 of 2025

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