IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.28508 of 2025
and
W.M.P.Nos.31902 & 31903 of 2025

Vinayaga and Co,
Represented by its Former Partner:
Ms Arthe Priya Somasundaram, Aged 36 Years
828/2, Narasipuram Road, Kulathpalayam,
Thondamuthur, Coimbatore,
Tamil Nadu 641 009.

...Petitioner

Vs.

1. The State Tax Officer
Vadavalli assessment circle,
Coimbatore- II Commercial
Taxes Building,
Dr. Balasundaram Road,
Coimbatore,
Tamil Nadu 641 018

2.The Assistant Commissioner (ST)
Vadavalli Assessment Circle
Commercial Taxes Building,
Dr. Balasundaram Road,
Coimbatore, Tamil Nadu 641 018.

3.The Branch Manager
Canara Bank, First Floor,
Central Complex, Narasipuram
Road, Thondamuthur,
Coimbatore 641 109.

4.The Branch Manager
IndusInd Bank, Ground Floor,
JV Buildings, SF No. 350,
Mullai Nagar, Maruthamalai
Main Road, Vadavalli,
Coimbatore 641 041.

...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 the recordd in Reference No. ZD330225117839B dated 13.02.2025 order under section 73 of the TNGST Act, 2017 along with a summary of the order in Reference No. ZD330225117839B dated 13.02.2025, on the file of the Respondent No. 1 relating to the FY 2020-2021 and quash the same and direct the Respondent No. 2 to lift the Bank attachment of the Account No. 120001621786 held by the Petitioner with Respondent No. 3 and to lift the Bank attachment of Account No. 201004081709 held by the Petitioner with Respondent No. 4.

For Petitioner : Mr.Gunjan Prabhakaran

For Respondents : Ms.P.Selvi
Government Advocate (Taxes)

ORDER

Ms.P.Selvi, learned Government Advocate (Tax), who takes notice on behalf of the first 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 dated 13.02.2025 passed by the first respondent for the AY 2020-21 and to quash the same and also consequential direction to the second respondent to lift the Bank attachments of the acccounts held by the petitioner.

3. The learned counsel for the petitioner would submit that the first respondent has issued a show cause notice on 26.11.2024, followed by reminder notices dated 07.01.2025, 27.01.2025 and 03.02.2025 by uploading the same in the GST portal without serving physical copy to the petitioner. Therefore, the petitioner was not aware of those notices and hence failed to submit reply to those notices. Since the petitioner failed to file reply to the said show cause notice, the first respondent has confirmed the proposals contained in the show cause notice and passed the present impugned order. Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order.

3.1. It is also submitted by the learned counsel for the petitioner that the petitioner is ready and willing to deposit 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remand the matter back to the Authority for fresh consideration. He would further submit that there are bank attachments and the same may be lifted, subject to the payment of 25% of the disputed tax. Hence, he prayed for appropriate directions.

4. The learned Government Advocate (Taxes) for the respondents 1 and 2 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 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.

6. 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.

7. Therefore, this Court finds that there is a lack of opportunities being provided to serve the notices/orders etc., effectively to the petitioner. 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. Hence, this Court is inclined to set-aside the impugned order with terms, by issuing the following directions:-

i) The impugned order passed by the 1st respondent dated 13.02.2025 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 had 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 clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

vi) Upon production of proof with regard to the payment of 25% of the disputed tax made by the petitioner, the Second Respondent-Bank is directed to de-freeze the petitioner's bank accounts forthwith.

8. With the above observations & directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

30.07.2025

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Index : yes/no
Neutral Citation : yes/no

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Krishnan Ramasamy,J.,

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