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W.P.No.29046 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.29046 of 2025

and

W.M.P.Nos.32579 & 32580 of 2025

Tvl SMARTSPACES DWELLING PRIVATE LIMITED

Represented by its Authorized Signatory

Mr. V. Pradeep Kumar, Door No 1/405- A

1AB, Kottai Nagar, ZuZuvadi, Hosur,

Krishnagiri Tamilnadu -635 126.

..Petitioner

Vs.

THE ASSISTANT COMMISSIONER (ST)(FAC)

OFFICE OF THE COMMERCIAL TAX OFFICER

HOSUR NORTH-1, KRISHNAGIRI,TAMIL NADU.

...Respondent

Prayer :-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records of the respondent herein in its Impugned order in GSTIN 33ABBCS2753B1ZU/ 2019-2020 dated 16.08.2024 along with the Consequential order in Form DRC-07 bearing Reference No.ZD330824130296G dated 16.08.2024 for the period 2019-20 and to quash the same.

For Petitioner : M/S. R.Hemalatha



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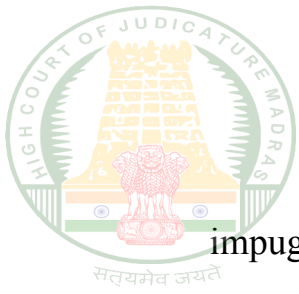
For Respondent : Mrs.K.Vasanthamala
Government Advocate (T)

Order

Heard M/s. R.Hemalatha, learned counsel appearing for the petitioner and Mrs.K.Vasanthamala, learned Government Advocate (T) who takes notice on behalf of 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 respondent dated 16.08.2024 along with the consequential order in Form DRC-07 dated 16.08.2024 for the period 2019-20 and to quash the same.

3. The learned counsel appearing for the petitioner contended that the petitioner was unaware of any of the proceedings initiated against them, inasmuch as, none of the communications/show cause notice/personal hearing notice/reminder notices were served on the petitioner directly through physical mode of service but made it available only on the GST Portal, hence, the petitioner failed to file reply and respond to such notices, however, the respondent without even hearing the petitioner, passed the



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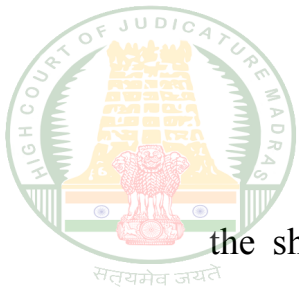
impugned order.

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3.1 The learned counsel contended that the impugned order suffers from violation of principles of natural justice, as the petitioner has not been heard before passing the impugned order and is liable to be set aside. However, it is stated that the petitioner is also ready and willing to deposit 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned order and remands the matter back to the Authority for fresh consideration, and thus, prays for appropriate orders.

4. The learned Government Advocate (T) for the respondent 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.

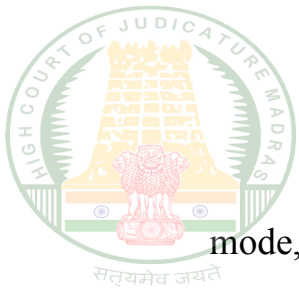
5. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notice was uploaded in the GST common Portal Tab'. According to the petitioner, the petitioner was not aware of the issuance of



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the show cause notice/reminders. 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



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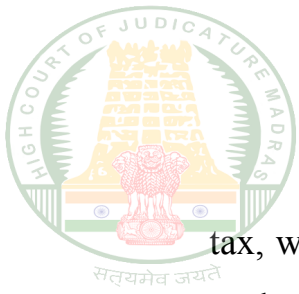
mode, the Officer who is issuing notices should strictly explore the possibilities of sending notices through some other mode as prescribed in Section 169(1) of the Act, preferably by way of RPAD, which would ultimately achieve the object of the GST Act.

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 Government Advocate (T) is also agreeable, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order passed by the respondent dated 16.08.2024 is set aside.

ii) Consequently, the matter is remanded to the respondent for fresh consideration.

iii) The petitioner is granted liberty to deposit 25% of the disputed



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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 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.

7. In the result, the Writ Petition is allowed on the aforesaid terms.

No costs. Consequently, connected Miscellaneous Petitions are closed.

05.08.2025

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Index : yes/no

To
THE ASSISTANT COMMISSIONER (ST)(FAC)

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OFFICE OF THE COMMERCIAL TAX OFFICER
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Krishnan Ramasamy, J.,

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