IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No. 29439 of 2025
and
W.M.P.No. 32995 of 2025

M/s.Metro Metal Trading Corporation,
Represented by its Proprietor,
No.29/20, Ekambareswarar Agraharam,
Park Town, Chennai – 600003. ...Petitioner

Vs.

1.The Commercial Tax Officer,
Moore Market, North II,
Chennai North, Tamil Nadu.

2.The Assistant Commissioner (St),
Moore Market Assessment Circle,
Station No.32,
Elephant Gate Bridge Road,
Chennai – 600 003.

3.The State Tax Officer,
Moore Market Assessment Circle,
Integrated Commercial Taxes Building No.32,
Elephant Gate Bridge Road,
Chennai – 600 003. ...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 records in the Order passed by the 3rd respondent vide GSTIN 33AGFPJ4529G1ZM 2018-19 dated 23.09.2024 and seeking to quash the same as arbitrary along with the consequential DRC-07 order under Section 73, Ref No: ZD330723015224V dated 14.11.2023 issued by the 1st respondent and further direct the 1st and 2nd respondent to drop the proceedings.

For Petitioner	:	Mr.Clint Li Johny
For Respondents	:	Ms.K.Vasanthamala Government Advocate (Tax)

Order

Ms.K.Vasanthamala, learned Government Advocate (Tax), 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 dated 23.09.2024 passed by the respondent for the FY 2018-19 and to quash the same and remand back the matter to the respondent.

3. The learned counsel for the petitioner would submit that the first respondent has issued a show cause notice in Form DRC 01 on 14.11.2023, unfortunately, the petitioner was not aware of those notices and file 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 has already paid the entire tax amount. Hence, he prayed for appropriate directions.

4. The learned Government Advocate (T) for the first respondent fairly submitted that 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 without condition, since the petitioner has paid the entire amount, by issuing the following directions:-

i) The impugned order passed by the respondent dated 23.09.2024 is set aside.

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

iii) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

iv) 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.

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

06.08.2025

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Index : yes/no
Neutral Citation : yes/no

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Krishnan Ramasamy,J.,

KKN

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