IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2025

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.29954 of 2025
and
W.M.P.Nos.33583 & 33586 of 2025

Tvl.Merlin Traders,
Rep. by its Proprietor
Jabaraj Vanitha Mary Rathnabai,
No.1, Iyyappa Nagar,
Guruswamy Nagar, Thandeerpandal,
Peelamedu, Coimbatore - 641 004. ...Petitioner

Vs.

1.Deputy Commissioner (ST) (FAC),
GST Appeal, Coimbatore.

2.Assistant Commissioner (ST),
Peelamedu North Assessment Circle,
Coimbatore. ...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 of the impugned order of the 2nd respondent in DRC-07 bearing Reference No.ZD330224031672U dated 06.02.2024 for the assessment year 2019-20 together with the consequential order in M.P.No.1937/2024 dated 30.09.2024 passed by the 1st respondent in the appeal with ARN No.AD3306240487225 filed by the petitioner and quash the same and further direct the 2nd respondent to pass a fresh order on merits after affording an opportunity of personal hearing and to produce documents.

For Petitioner : Mr.A.Abraham John Samuel

For Respondents : Ms.Amirtapoonkodi Dinakaran
Government Advocate (Tax)

ORDER

Ms.Amirtapoonkodi Dinakaran, learned Government Advocate (Tax), who takes notice on behalf of the respondents. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. This Writ Petition has been filed challenging the impugned order dated 06.02.2024 passed by the 2nd respondent along with the consequential order dated 30.09.2024 passed by the 1st respondent and to quash the same.

3. The learned counsel for the petitioner would submit that the 2nd respondent issued a notice in Form DRC-01 dated 27.06.2023, for which the petitioner filed his reply on 31.07.2023 along with other supporting documents. However, in non-application of mind, the 2nd respondent passed the impugned order dated 06.02.2024 stating that the reply filed by the petitioner is not acceptable. As against the impugned order, the petitioner filed an appeal before the 1st respondent, with a delay of 53 days and the same was rejected. He would further contend that no opportunity of personal hearing was provided by the 2nd respondent prior to the passing of impugned order, which is violation of principles of natural justice.

4. 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. Hence, he prayed for appropriate directions.

5. The learned Government Advocate (Tax) for the respondents 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.

6. 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. 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 notice 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 serve the notices/orders etc., effectively to the petitioner. 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 2nd respondent dated 06.02.2024 and the consequential order passed by the 1st respondent dated 30.09.2024 are set aside.

ii) Consequently, the matter is remanded to the 2nd 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 four weeks from the date of receipt of a copy of this order.

iv) 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 copy of this order.

v) On filing of such reply/objection by the petitioner, the 2nd 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, within a period of eight (8) weeks from the date of receipt of the reply filed by the petitioner.

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

12.08.2025

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

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To

1.The Deputy Commissioner (ST) (FAC),
GST Appeal, Coimbatore.

2.The Assistant Commissioner (ST),
Peelamedu North Assessment Circle,
Coimbatore.

KRISHNAN RAMASAMY, J.,

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