IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

**W.P.No.29808 of 2025**
**and**
**W.M.P.Nos.33431and 33433 of 2025**

Tvl Srinivasan Contractors and Traders
Rep. by its Proprietor
Srinivasan,
No 5, V.B. Sankar Nagar, Thenpathy,
Sirkali, Nagapattinam 609 111.

...Petitioner

Vs.

1. The Deputy Commissioner (CT)
Renolds Road ,
Cantonment, Trichy 620 001.

2.The Commercial Tax Officer,
Thiruvarur Assessment Circle,
12-A, Kumaran Koil St, Rajgopal Nagar,
Santhamangalam, Madappuram,
Thiruvarur 610002.

3.The State Tax Officer
Inspection 1
Thiruvarur Assessment Circle,

12-A, Kumaran Koil St, Rajgopal Nagar,
Santhamangalam, Madappuram,
Thiruvarur 610002.

...Respondents

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records pertaining to the impugned order vide DRC 07 issued in Ref. No. ZD331223248085P dated 28.12.2023 by the 2nd respondent for the assessment year 2017-2018 and the consequential order dated 28.05.2025 issued in FORM GST APL-02 in Reference No. ZD330525316086L by the 1st respondent.

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| For Petitioner | : | Mr.A.Mohamed Ismail |
| For Respondent | : | Mr.C.Harsha Raj<br>Special Government Pleader |

**Order**

Mr.C.Harsha Raj, learned Special Government Pleader (Taxes), 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.** The challenge in this Writ Petition is to the order dated 28.12.2023 passed by the $2^{nd}$ respondent for the AY 2017-18 and the consequential order of the 1st respondent dated 28.05.2025 and to quash the same.

**3.** The learned counsel for the petitioner would submit that the 2nd respondent has issued a show cause notice on 27.09.2023 to the petitioner by uploading the same in the GST portal without serving physical copy of the same to the petitioner. Therefore, the petitioner was unaware of the same and hence failed to submit its reply. Since the petitioner failed to file reply to the show cause notice, the respondent has confirmed the proposals contained in the show cause notice and passed the present impugned order and the same was also uploaded in the GST portal. Subsequently, the petitioner filed an appeal bfore the 1st respondent and the same was dismissed vide order dated 28.05.2025. Challenging both the assessment order as well as the order passed by the appellate authority, the petitioner is before this Court by way of the present writ petition.

**4.** Further, the learned counsel would submit that the impugned assessement 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 pursuant to the impugned order, entire disputed tax has been paid by the petitioner.

**4.** The learned Special Government Pleader for the respondents submitted that intially show cause notice was issued to the petitioner and since the petitioner failed to submit its reply, assessment order came to be passed. As far as the contention of the petitioner with regard to the payment of entire tax liability is concerned, the learned Special Government Pleader (Taxes) would submit that appropriate orders may be passed subject to verification.

**5.** Heard both sides. Perused the records.

**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.

**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 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.

**8.** 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, by issuing the following directions:-

i) The impugned assessment order passed by the 2nd respondent dated 28.12.2023 is set aside.

ii) Consequently, the matter is remanded to the 2nd 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 2nd 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.

**9**. Since the assessement itself is set aside, the consequential order passed by the 1st respondent in rejecting the appeal is also set aside.

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

**11.08.2025**

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Index : yes/no
Neutral Citation : yes/no

To

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**Krishnan Ramasamy,J.,**

arr

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