IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-05-2025

CORAM

THE HONOURABLE MRS JUSTICE N. MALA

WP No. 28248 of 2024 and
W.M.P.Nos.30793 & 30796 of 2024

Tvl Sakthi Murugan Lorry Service
Earth Movers
No. 66/1, Mariyamman Koil Street,
Kadagampattu, Vanur, -605502, Rep By
Its Pro T Sakth Murugan

Petitioner(s)

Vs

The Deputy State Tax Officer -1
Villupuram -ii, Assessment Circle,
Villupuram, Commercial Taxes
Building, Integrated Master Plan
Complex, Villupuram -605 602

Respondent(s)

PRAYER

to call for records of the Respondent in GST No. 33AZEPS2122AlZ2/2018-19 dated 23.04.2024 quash the same as it has been passed in violation of principles of natural justice

For Petitioner(s): Adithya Reddy
JANANI
Vaidhya Shankar
Vindhiya Vasini.S

For Respondent: V.Prasanth Kiran, G.A.

ORDER

This Writ Petition has been filed, seeking for the issuance of a Writ of Certiorari, to call for records of the Respondent in GST No. 33AZEPS2122AlZ2/2018-19 dated 23.04.2024 and quash the same.

2. The petitioner is a lorry service provider with GST NO.GSTIN:33AZEPS2122A1Z2. According to the petitioner, he was issued with a notice in Form DRC-01 on 27.12.2023, under Section 73 of the GST Act. As the said notice was uploaded in the respondents GST portal, the same went unnoticed by the petitioner. Later, the respondent passed the impugned order, dated 23.04.2024, imposing the tax and penalty.

3. Heard Mr.P.Suresh Babu, learned counsel for the petitioners and Mr.V.Prashant Kiran, learned Government Advocate (T), who takes notice on behalf of the respondents.

4. By consent of both parties, the main Writ Petitions are taken up for final disposal at the stage of admission itself.

5. It is 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 deems it fit to set aside the impugned order and remands it to the Authority for fresh consideration.

6. The learned Government Advocate (T) for the first respondent fairly submitted that since the petitioner had voluntarily come forward to deposit 25% of the disputed tax, the prayer sought for by the petitioner may be considered.

7. 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 him. In such circumstances, this Court is of the view that

the impugned assessment order passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notices is illegal and unsustainable.

8. Assuming that sending notices by uploading in the portal is sufficient service, when the Officer who was sending the repeated reminders, received no response from the petitioner, he ought to have applied his/her mind and explored diligently the possibility of sending notices by other modes prescribed in Section 169 of the GST Act. Mere uploading notice repeatedly without ensuring their receipt by the petitioner cannot be considered as effective service. Such mechanical compliance does not serve any useful purpose and the same will only lead to multiplicity of litigations, wasting not only the time of the Officer concerned, but also the precious time of the Appellate Authority / Tribunal and this Court as well. Thus, when there was no response from the tax payer to the notice uploaded in the portal, the Officer should have sent the notice through RPAD, which would have served the purpose.

9. Therefore, I find that there was a failure of effective opportunity to the petitioner to reply to the show cause notice. Hence, I am inclined to set-aside the impugned order with the following directions:-

i) The impugned order passed by the first respondent dated

23.04.2024 is set aside.

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

iii) The petitioner is directed to deposit 25% of the disputed tax, which the petitioner has voluntarily come forward to make, 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 issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and decide the matter in accordance with law.

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

08-05-2025

Suk/dn
Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

To

1.The Deputy State Tax Officer -1
Villupuram -ii, Assessment Circle,
Villupuram, Commercial Taxes
Building, Integrated Master Plan
Complex, Villupuram -605 602

N.MALA J.

Suk/dn

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