IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

W.P No. 28241 of 2024 and
WMP.Nos.30783 and 30784 of 2024

Absolute Distribution Solution Private limited,
Rep by its Authorised Signatory Mr.Manoj,
First Floor, Unit No.7, Wellingdon Estate,
53, Ethiraj Salai, Egmore, Chennai-600 081. Petitioner

..Vs..

1. The Assistant Commissioner (ST),
Egmore Assessment Circle,
Integrated Commercial Tax Building,
No.88, Mayor Ramanathan Salai,
Spur Tank Road, Chetpet,
Chennai- 600 031.

2. The State Tax Officer (FAC,
Egmore Assessment Circle,
No.88, Mayor Ramanathan Salai,
Taluk Office Building, 2nd Floor,
Spur tank Road, Chetpet,
Chennai- 600 031.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to the impugned order in GST No.33AAKCA1203E1ZG/2017-18 dated 26.12.2023 issued by the 2nd Respondent against the petitioner company and quash the same as Void and Arbitrary.

For Petitioner: Mr.Sanskar Samdaria

For Respondents: Mr.T.N.C.Kaushik
Additional Government Pleader
(Taxes)

ORDER

The challenge in this writ petition is to the order dated 26.12.2023 passed by the 2nd respondent against the petitioner and to quash the same.

2. The learned counsel for the petitioner submits that the 2nd respondent issued the show cause notice to the petitioner by uploading the same in the GST portal without serving on the petitioner by any other mode of service, therefore, the petitioner was not aware of the show cause notice and failed to submit its reply. Since, the petitioner failed to submit its reply to the

show cause notice, impugned assessment order came to be passed confirming the proposals in the show cause notice. Yherefore, the impugned assessment order passed by the 2nd respondent suffers from violation of principles of natural justice and is liable to be aside. However, it is stated by the learned counsel for the petitioner that morethan 25% of the disputed tax has been recovered from the petitioner by the respondents .

4. The learned Additional Government Pleader (Taxes) for the respondents submitted that respondents have uploaded all the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, she requested this Court to remit the matter back to the respondent, subject to the verification of payment of 25% of the disputed tax amount by the petitioner.

5. I have given due considerations to the submissions made by the learned counsel appearing on either side and perused the records.

6. In the case on hand, it is evident that the show cause notice was uploaded on the GST Portal Tab. According to the petitioner, he was not aware of the issuance of the said 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. 9. 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. 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.

8. Further, it was submitted by the learned counsel for the petitioner that the petitioner has already paid 25% of the disputed tax amount to the respondents. In such view of the matter, this Court is inclined to set aside the impugned order dated 26.12.2023 passed by the 2nd respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 26.12.2023 is set aside and the matter is remanded to the 2nd respondent for fresh consideration.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of three weeks from the date of receipt of copy of this order.

(iii) On filing of such reply/objection by the petitioner, the 1st respondent shall consider the same and issue a 14 days clear notice, by fixing the date of personal hearing, to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

(iv)The respondents are at liberty to recover 25% of the disputed tax amount if no tax amount has been recovered from the petitioner.

9. Accordingly, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

24.06.2025

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To

1. The Assistant Commissioner (ST),
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 Spur Tank Road, Chetpet,
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2. The State Tax Officer (FAC,
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KRISHNAN RAMASAMY, J.

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WP No. 28241 of 2024

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