IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No. 29893 of 2025
and
W.M.P.Nos. 33545 & 33546 of 2025

Tvl. Malliga's Super Market,
Rep. By Navashkhan Sara Banu,
No.66/1, Main Road, Omalur,
Salem, Tamilnadu – 636 455. ...Petitioner

Vs.

The State Tax Officer,
Mettur Assessment Circle,
Mettur. ...Respondent

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 order passed by the respondent vide GSTIN 33BCNPM4104P1ZC/2020-21 dated 14.02.2025 and seeking to quash of the same as arbitrary along with the consequential DRC-07 Order under Sec. 73, Ref No. ZD330225145019P dated 15.02.2025 and further direct the respondent to give the opportunity of hearing to the petitioner and pass order on merits in accordance with law.

For Petitioner	:	Mr.M.Narasimha Bharathi
For R1	:	Ms.P.Selvi Government Advocate (Tax)

Order

Ms.P.Selvi, 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 14.02.2025 passed by the respondent for the AY 2020-21 and to quash the same.

3. The learned counsel for the petitioner would submit that though the respondent issued a summary order and show cause notice in the name of Malliga Supermarket, in the impugned order, it was mentioned as Tvl.Nallappan Mahendran, Shri Mahendra Silks. Furthermore, he would submit that in DRC-07 notice, the name was mentioned as Navashkhan Sara Banu without mentioning the concern's name therefore, the impugned order is passed without application of mind and the same is travelling beyond the

scope of show cause notice.

3.1. The learned counsel for the petitioner would submit that the respondent has issued a show cause notice in Form DRC 01 on 25.11.2024, unfortunately, the Consultant, who was engaged by the petitioner for filing returns, on account of his ill-health, he failed to note those notices/reminders and intimate the petitioner. 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 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 set aside, as the petitioner has not been heard before passing the impugned order.

3.2. 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.

4. The learned counsel Government Advocate appearing for the respondent would submit that in the summary order, the name was correctly mentioned however, the impugned assessment order was issued in the name of different person so, it is only a typographical error therefore, he would submit that, as usual, upon payment of pay 25% disputed tax by the petitioner, the prayer sought for 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 with terms, by issuing the following directions:-

i) The impugned order passed by the respondent dated 14.02.2025 is set aside.

ii) Consequently, the matter is remanded to the 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 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 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.

12.08.2025

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Index : yes/no
Neutral Citation : yes/no

To

The State Tax Officer,
Mettur Assessment Circle,
Mettur.

Krishnan Ramasamy, J.

KKN

W.P.No. 29893 of 2025

12.08.2025

<u>W.P.No. 29893 of 2025</u>
<u>and</u>
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KRISHNAN RAMASAMY,J.

This matter has been listed under the caption "For Being Mentioned" at the instance of the learned counsel for petitioner.

2. Learned counsel for the petitioner submitted that this Court, vide order dated 12.08.2025 disposed this writ petition by issuing certain directions. At the time of disposal, the learned counsel for the petitioner particullary submitted that the petitioner is not ready and willing to deposit 25% of the disputed tax, since the show cause notice was issued in the name of different entity. However, on perusal of the order copy, specifically para No.3.2., inadvertently a typographical error has been crept, wherein it is mentioned as the petitioner is willing to deposit 25% of the disputed tax, in the event, this Court sets aside the impugned order and remand the matter back to the Authority for fresh consideration and as a result, in Sub-Clause (iii) of paragraph No.7, a direction came to be issued to the petitioner to deposit 25% of the disputed tax, which requires to be deleted.

3. After perusing the order dated 12.08.2025, more specifically,

paragraph-3.2, this Court is satisfied and, accordingly, paragraph-3.2 of the order dated 12.08.2025, would stand substituted with the following paragraph:-

> ***" 3.2. It is also submitted by the learned counsel for the petitioner that the impugned order may be set aside without any condition, since the respondent has passed the order in the name of different entity"***

4. In addition to the aforesaid correction, Registry shall delete the Sub-Clause (iii) of paragraph No.7 of the said order and re-number the sub-clause (iv) and (v) of the said paragraph as (iii) and (iv), respectively.

5. All the other conditions and observations made in the earlier order dated 12.08.2025 shall remain intact.

6. Registry is directed to carry out the necessary corrections as aforesaid in the order dated 12.08.2025 and issue fresh copy of the order to the respective counsels appearing on behalf of the parties.

10.10.2025

vm

KRISHNAN RAMASAMY.J.,

vm

W.P.No.29893 of 2025

10.10.2025