IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.29559 of 2025
and
W.M.P.Nos.33099, 33101 and 33102 of 2025

Tvl Babble Networks
(Represented by its partner Mr. Ashok Ram)
Babble Networks No 133, G 4, 3rd Main Road,
Sadashivan Nagar, Madipakkam,
Chennai 600 091.

...Petitioner

Vs.

1. The Assistant Commissioner (ST),
(also known as Commercial Tax officer)
Madipakkam Assessment Circle,
Station: Room No 229-2nd Floor,
Integrated Commercial Taxes office Building,
Govt Farm village Nandanam,
Chennai 600 035.

2.The Deputy Commissioner (ST) (FAC)
Tambaram Zone, 4th floor, PAPJM Building,
Greams Road, Chennai 600 006.

3. The Branch Head,
HDFC-Bank- Valasaravakkam Branch
(IFSC Code-HDFC0000024)
Plot No. 8, Arcot Road, Valasaravakkam,
Chennai 87.

4. The Branch Head,
SBI Bank - Ekkaduthangal Branch
(IFSC Code -SBIN0016546)
Plot No. 5, Jawaharlal Nehru Road,
Ekkaduthangal, Chennai 96.

5. The Branch Head,
ICICI Bank- DLF IT SEZ Park
(IFSC code-ICIC0001547)
Block No.5, Mount Poonamalle Road,
Nandambakkam, Chennai 89.

6. The Branch Head
HDFC Bank - Thiruvanmiyur Branch
(IFSC Code-HDFC0000847)
House No.8, Old No. 160/161, L.B. Road,
Thiruvanmiyur, Chennai.

7. The Branch Head,
SBI Bank Jafferkhanpet Branch
(IFSC Code-SBIN0011653)
No. 55, 2nd Street, Kasi Estate,
West Jafferkhanpet, Chennai 83.

...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 on the files of the first Respondent herein vide order Ref. No. GSTIN: 33AAQFV0433J1Z2 /2017-18 dated 1st march, 2024 issued along with the summary of the order in GST-DRC 07 no. ZD3303240060535 dated 1st March, 2024 passed for the tax period between July 2017 to March 2018 , quash the same.

For Petitioner : Ms.S.Vishnupriya

For Respondents : Mr.T.N.C.Kaushik (R1 and R2)
Additional Government Pleader (Taxes)

Order

Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes), takes notice on behalf of the respondents 1 and 2. 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 01.03.2024 passed by the first respondent for the AY 2017-18 and to quash the same.

3. The learned counsel for the petitioner would submit that the first respondent has issued a show cause notice on 01.09.2023, followed by reminder notice dated 10.11.2023 to the petitioner, by uploading the same in the GST portal, unfortunately, the Accountant, who was engaged by the petitioner for filing returns, also failed to note those notices and intimate the petitioner. Therefore, 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 first 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 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, the petitioner's bank accounts were attached and thereafter 49% of the disputed tax amount has been recovered from the petitioner. Therefore, he prays to set aside the impugned order and direct the respondents concerned to lift the bank attachment. Hence, he prayed for appropriate directions.

4. The learned Additional Government Pleader (Taxes) for the first respondent fairly submitted that 49% of the disputed tax amount has been recovered from the petitioner. He therefore prays for appropriate orders.

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, by issuing the following directions:-

i) The impugned order passed by the first respondent dated 01.03.2024 is set aside.

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

iii) 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 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.

vi) Upon production of proof with regard to the payment of 49% of the disputed tax made by the petitioner as stated above, the respondents 3 to 7 are directed to de-freeze the accounts of the petitioner forthwith.

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

07.08.2025

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Index : yes/no
Neutral Citation : yes/no

To

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Krishnan Ramasamy,J.,

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