IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2025

Coram

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.30082 of 2025
and
W.M.P.Nos.33718 & 33721 of 2025

AA Consultancy,
Represented by its Proprietor
A.Aslam,
No.16/7, Rama Street,
Periamet, Chennai - 600 003. ...Petitioner

Vs.

Assistant Commissioner (ST) (FAC),
Vepery Assessment Circle,
No.1, Greams Road,
Chennai - 600 006. ...Respondent

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 impugned order of the respondent passed in GSTIN No:33AAFPA6727M1ZQ/2019-2020 dated 02.08.2024 and quash the same.

For Petitioner : Ms.Divya A

For Respondent : Mrs.K.Vasanthamala
Government Advocate (Tax)

ORDER

Mrs.K.Vasanthamala, learned Government Advocate (Tax), who 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. This Writ Petition has been filed challenging the impugned order dated 02.08.2024 passed by the respondent and to quash the same.

3. The learned counsel for the petitioner would submit that the respondent issued show cause notice to the petitioner for the financial year 2019-20 by uploading the same in the GST portal without serving physical copy of the said notices to the petitioner and the Petitioner's consultant who was entrusted with the work relating to GST failed to inform the same to the petitioner. He would contend that no opportunity of personal hearing was provided by the respondent prior to the passing of impugned order, which is violation of principles of natural justice.

4. 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. Hence, he prayed for appropriate directions.

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

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. 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.

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 notice 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. 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 02.08.2024 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 four 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.

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

12.08.2025

Speaking order / Non-Speaking order
Index : Yes / No
Neutral Citation : Yes / No

sri

To

The Assistant Commissioner (ST) (FAC),
Vepery Assessment Circle,
No.1, Greams Road,
Chennai - 600 006.

KRISHNAN RAMASAMY, J.,

sri

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