IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.30438 of 2025
and
W.M.P.Nos.34127 and 34128 of 2025

Armsoftech Private Limited,
Represented by its Authorised
Signatory, Mr.N.Suresh, Tower C,
Floor 9, Plot No-14, Kosmo One
Business Park, 3rd Main Road,
Ambattur,
Chennai 600 058.
Tamilnadu.

...Petitioner

Vs.

1. The Assistant Commissioner (ST),
Shollinganallur Assessment circle,
2nd Floor, Room No 218,
Integrated Building for Commercial
Taxes and Registration Department
(South Tower), Nandanam,
Chennai 600 035

2.The Deputy Commissioner (ST)
GST Appeal-II, Main Buildings,
2nd Floor, No.1 Greams Road,

Chennai 600 006.

...Respondents

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 records of the first respondent in FORM GST DRC-01 dated 26/11/2024 along with consequential order in GSTIN: 33AAPCA4211P1Z1/2020-21 dated 06.02.2025 along with DRC-07 dated 08.02.2025 and the order of the second respondent passed in APL-02 with Memorandum in GSTIN: 33AAPCA4211P1Z1/2020-21 dated 25.07.2025 dismissing the Appeal and quash the same as illegal, unreasonable, arbitrary and further direct the first respondent to re-credit the recovered amount of Rs.49,97,344/- to the electronic credit ledger

For Petitioner	:	Mr.P.Arumugam
For Respondents	:	Mr.V.Prashanth Kiran Government Advocate (Taxes)

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ORDER

Mr.V.Prashanth Kiran, learned Government Advocate (Taxes), takes notice on behalf of the respondents. 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

26.11.2024 passed by the 1st respondent for the AY 2020-21 and the consequential order of the 2nd respondent dated 25.07.2025 and to quash the same.

3. The learned counsel for the petitioner would submit that the 2nd respondent has issued a show cause notice dated 26.11.2024 followed by three reminders dated 13.01.2025, 20.01.2025 and 27.01.2025 to the petitioner by uploading the same in the GST portal without serving physical copy of the same to the petitioner. Unfortunately, the petitioner's accountant also failed to see the aforesaid notices in the GST portal. Therefore, the petitioner was unaware of the same and hence failed to submit its reply. Since the petitioner failed to file reply to the show cause notice, the 1st respondent has confirmed the proposals contained in the show cause notice and passed the present impugned assessement order and the same was also uploaded in the GST portal. The petitioner came to know of the assessement order and the aforesaid notices only after recovery of tax amount through the Electronic Credit Ledger. Subsequently, the petitioner filed an appeal before thee 2nd respondent on 18.07.2025 and the same was rejected vide order dated 25.07.2025 on the ground of delay. Challenging both the assessment order as well as the order passed by the appellate authority, the petitioner is before this Court by way of the present writ petition.

4. Further, the learned counsel would submit that the impugned assessement 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.

5. It is also submitted by the learned counsel for the petitioner that pursuant to the impugned order, entire disputed tax has been recovered from the petitioner through Electronic Credit Ledger.

6. The learned Government Advocate (Taxes) for the respondents submitted that intially show cause notice followed by three reminders were issued to the petitioner and since the petitioner failed to submit its reply, assessment order came to be passed. As far as the contention with regard to the recovery of entire tax amount, the learned Government Advocate (Taxes) would submit that appropriate orders may be passed subject to verification.

7. Heard both sides. Perused the records.

8.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.

9. 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.

10. 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 assessment order passed by the 1st respondent dated 26.11.2024 is set aside.

ii) Consequently, the matter is remanded to the 1st respondent for fresh consideration.

iii) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

iv) Thereupon, the 1st 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.

v) The respondents are at liberty to recover 25% of the disputed tax amount from the petitioner, in case no amount has been recovered from the petitioner as contended by the learned counsel for the petitioner.

11. Since the assessement order itself is set aside, the consequential order passed by the 2nd respondent in rejecting the appeal is also set aside.

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

18.08.2025

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Index : yes/no
Neutral Citation : yes/no

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Krishnan Ramasamy,J.,

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