IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.08.2025

CORAM
THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.31282 of 2025
and W.M.P.No.35012 of 2025

M/s.SKB Sons,
Rep. by Proprietor,
Balakrishnan Padmanabhan,
No.1/124, Santhur Main Road,
Pochampalli,
Krishnagiri - 635 026. ... Petitioner

Vs.

1.The Deputy Commissioner of Appeals (ST),
Combined Commercial Tax Building,
2nd Floor, Pitchards Road,
Hasthampati, Salem - 636 007.

2.The Assistant Commissioner (State),
Krishnagiri II Circle,
Collectorate Complex,
Krishnagiri - 635 115.

3.The Manager,
Indian Bank,
1/311, Kaveripattinam Road, Pochampalli,
Krishnagiri - 635 206. ... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order passed in proceedings in GSTIN/33ABTPP3909P3ZT/2017-18 on the file of the second respondent dated 08.12.2023 quash the same and direct respondents 2 and 3 to defreeze the bank accounts of the petitioner viz., Current Account No.6393533968.

For Petitioner : Mr.V.Elangovan

For Respondents 1 & 2 : Ms.P.Selvi, Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 08.12.2023 passed by the second respondent.

2. Ms.P.Selvi, learned Government Advocate, takes notice on behalf of the respondents 1 & 2. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in this

case, all notices/communications were uploaded by the second respondent in the GST common portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the impugned order came to be passed by the second respondent without providing any opportunity of personal hearing to the petitioner. Challenging the said assessment order, an appeal was also preferred by the petitioner, belatedly. Hence, challenging the assessment order, this petition has been filed.

4. Further, he would submit that the petitioner is willing to pay 25% of the disputed tax amount to the second respondent and he has also made an endorsement to that effect in the case bundle. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the second respondent by setting aside the impugned order.

5. On the other hand, the learned Government Advocate appearing for the respondents 1 & 2 would submit that the second respondent had uploaded the notices in the GST Online Portal. But the petitioner failed

to avail the said opportunity. Further, she 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 second respondent, subject to the payment of 25% of the disputed tax as agreed by the petitioner.

6. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents 1 & 2 and also perused the materials available on record.

7. 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. 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. 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.

10. Further, it was submitted by the learned counsel for the petitioner that the petitioner is willing to pay 25% of the disputed tax amount to the second respondent. In such view of the matter, this Court is inclined to set aside the impugned order dated 08.12.2023 passed by the second respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 08.12.2023 is set aside and the matter is remanded to the second respondent for fresh consideration on condition that the petitioner shall pay 25% of disputed tax amount to the second respondent within a period of four weeks from the date of receipt of a copy of this order, as agreed by the petitioner. The setting aside of the impugned order will take effect from the date of payment of the said amount.
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> (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 payment of amount as stated above.

(iii) On filing of such reply/objection by the petitioner, the respondents 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) Considering the fact that the impugned order itself has been set aside, this Court is of the opinion that the attachment made on the bank account of the petitioner cannot survive any longer and hence, it is to be lifted. As a sequel, the concerned respondent is directed to instruct the concerned Bank to release the attachment, and de-freeze the bank account of the petitioner, immediately upon the production of a copy of this order.

With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is also closed.

22.08.2025

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

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To

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<u>KRISHNAN RAMASAMY.J.,</u>
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