IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.08.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.32039 of 2025
and
W.M.P.Nos.35906 and 35908 of 2025

Tvl. Sun Tex Mills
Rep.by its Partner Jothimani,
No.2/167, SPK Nagar,
Pongupalayam Post,
Permanallur, Tiruppur - 641 666.

... Petitioner

Vs.

1. The Deputy Commissioner (CT),
Appellate Authority,
GST Appeals, Tiruppur.

2. The Assistant Commissioner (ST),
Anupparpalayam Assessment Circle,
Tiruppur.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the orders of the second respondent in Form DRC-07 with reference No.ZD3308241386168 dated 16.08.2024 passed under Section 73 of the TNGST Act, 2017 pertaining to the financial year 2019-20 and quash the same as illegal, devoid of merits and in violation of principles of natural justice.

For Petitioner : Mr.Varun Pandian

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

ORDER

Mr.T.N.C.Kaushik, learned Additional Government Pleader (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 16.08.2024 passed by the 2nd respondent 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 10.05.2024 by uploading the same in the GST portal without serving physical copy of the same to the petitioner. Therefore, the petitioner was not aware of the show cause notice and failed to submit the reply. Since the petitioner failed to file reply to the said show cause notice, the 2nd respondent has confirmed the proposals contained in the show cause notice and passed the impugned assessment order dated 16.08.2024. Subsequently, the petitioner filed an appeal on 30.01.2024 before the 1st respondent with delay of 1 day beyond the condonable period and the same was also rejected vide order dated 05.04.2025 on the ground of delay. Futher, the learned counsel would submit that the impugned assessment 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 the petitioner has already deposited 10% at the time of filing appeal and is ready and willing to deposit 15% of the disputed tax, in the event, this Court is inclined to set aside the impugned assessment order and remand the matter back to the Authority for fresh consideration. He has also made an endorsement to that effect.

4. The learned Additional Government Pleader (Taxes) for the respondents fairly submitted that since the petitioner has voluntarily come forward to deposit 15% of the disputed tax, the prayer sought for by the petitioner 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 assessment order with terms, by issuing the following directions:-

i) The impugned order passed by the 2nd respondent dated 16.08.2024 is set aside.

ii) Consequently, the matter is remanded to the 2nd respondent for fresh consideration.

iii) The petitioner is granted liberty to deposit 15% 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 2nd respondent is directed to consider the reply and shall issue a 14 days clear notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

8. Since the impugned assessment order itself is set aside and remanded back to the 2nd respondent, the order passed by the 1st respondent in rejecting the appeal is also set aside.

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

25.08.2025

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

1. The Deputy Commissioner (CT),
   Appellate Authority,
   GST Appeals, Tiruppur.

2. The Assistant Commissioner (ST),
   Anupparpalayam Assessment Circle,
   Tiruppur.

KRISHNAN RAMASAMY.J.,

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