IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.08.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.31911 of 2025
& W.M.P.Nos.35736, 35737 & 35730 of 2025

Kalaimani Associates,
Represented by its Proprietor, Sivakumar
No.72A, LIG Mullai Nagar,
West Tambaram,
Kancheepuram District 600045

... Petitioner

Vs.

1. The Assistant Commissioner/Proper Officer
Commercial Tax Department,
Tambaram Assessment Circle,
Room No.342, 3rd Floor,
Integrated Commercial Taxes Complex,
Nandanam, Chennai-600 0035

2. The Deputy Commissioner (ST)(FAC)
Tambaram Zone, 4th Floor,
PAPJM Building, Greams Road,
Chennai 600006

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the impugned proceedings of the first respondent passed in GSTIN-33AGVPR5428C1Z6/2020-21 dated 06.02.2025 and the summary of the order in form GSTR DRC-07 dated 06.02.2025 issued in reference No.ZD330225061528H and the notice issued by the second respondent through Form GST DRC-13 dated 09.07.2025 and quash the impugned proceedings as passed contrary to the provisions of the Central Goods and Service Tax Act, 2017 read with the provisions of the Tamil Nadu Goods and Services Tax Act, 2017

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.V.Prashanth Kiran, GA

ORDER

This writ petition has been filed challenging the impugned order dated 06.02.2025 and the consequential notice dated 09.07.2025 issued by the respondents.

2. Mr.V.Prashanth Kiran, learned Government Advocate, takes notice on behalf of the respondent. 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, based on the voluntary request made by the petitioner, their GST Registration was canceled vide order dated 08.02.2021. Subsequent to the said cancellation, all notices/ communications were uploaded 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 respondent without providing any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. Further, he would submit that the petitioner is willing to pay 10% of the disputed tax amount to the respondent. In this regard, he had also made an endorsement in the case bundle. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned order.

5. On the other hand, the learned Government Advocate appearing for the respondent would submit that the respondent had

uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, he has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. That apart, since the notices were issued subsequent to the cancellation of GST Registration of the petitioner, he requested this Court to remit the matter back to the respondent, subject to the payment of 10% of the disputed tax amount by the petitioner.

6. Heard the learned counsel for the petitioner and and the learned Government Advocate for the respondent 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 has voluntarily cancelled their GST Registration. When such being the case, all the communications should have been sent to the e-mail id provided by the petitioner. However, the respondent had failed to do so. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing, which is a clear violation of principles of natural justice.

11. That apart, now, the petitioner is willing to pay 10% of the disputed tax amount to the respondent and with regard to the same, he had also made an endorsement in the case bundle. In such view of the

matter, this Court is inclined to set aside the impugned order dated 06.01.2025 passed by the 1st respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 06.01.2025 is set aside and the matter is remanded to the 1st respondent for fresh consideration on condition that the petitioner shall pay 10% of disputed tax amount to the respondent within a period of four weeks from the date of receipt of a copy of this order. The setting aside of the impugned order will take effect from the date of payment of the said amount.

(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 respondent 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, vide notice dated 09.07.2025, cannot survive any longer and hence, it is to be lifted. As a sequel, the 2nd 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 along with the proof of payment as stated above.

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

22.08.2025

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

To

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