IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No. 32922 of 2025
and
W.M.P.Nos. 36912 & 36914 of 2025

Tvl.Cholan Shopping Mall,
Represented by its Partner,
Mr.Mohamed Salk Hasan,
No.84/85, Melaraja Veethi,
Mannargudi, Tiruvarur,
Tamil Nadu – 614001. ...Petitioner

Vs.

1.The State Tax Officer,
(also known as Commercial Tax Officer),
Mannargudi Assessment Circle,
West First Street, Water Tank Building,
Mannargudi – 614001.

2.The State Tax Officer, Inspection -III,
Office of the Joint Commissioner (State Tax) (Intelligence)
Thiruvarur Division,
No.3/216, Pavithiramaniakkam Main Road,
Thiruvarur. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the 1st respondent herein in GSTIN: 33AALFC5072F1ZM/2020-2021 dated 18.02.2025 wrongly mentioned as GSTIN: 3AAAFC5366K1ZH / 2020-2021 and the order under Section 73 dated 18.02.2025 and the summary of the order in Form GST DRC-07 dated 18.02.2025 both issued in Reference No: ZD330225178318C and quash the same.

For Petitioner	:	Mr.A.N.R.Jayaprathap
For Respondents	:	Mr.C.Harsha Raj Special Government Pleader (Tax)

Order

Mr.C.Harsha Raj, learned Special Government Pleader (Tax), who 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 18.02.2025 passed by the first respondent for the AY 2020-21 and to quash the same and also consequential direction to the respondent to quash the summary order dated 18.02.2025 and remand back the matter to the respondent.

3. The learned counsel for the petitioner would submit that the respondent has issued a show cause notice in Form GST DRC - 01 on 23.11.2024, unfortunately, the Consultant, who was engaged by the petitioner for filing returns went on long leave without prior intimation and, he failed to note those notices/reminders and intimate the petitioner. The petitioner was not aware of those notices and file reply to those notices. Since the petitioner failed to file reply to the said show cause notice, the first respondent has confirmed the proposals contained in the show cause notice and passed the present impugned order. Therefore, the learned counsel would submit that the impugned 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 50% of the disputed tax and request this Court to remand the matter back to the Authority for fresh consideration. Hence, he prayed for appropriate directions.

4. The learned Special Government Pleader (T) for the respondent fairly submitted that since the petitioner has already paid 50% 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 order with terms, by issuing the following directions:-

i) The impugned order passed by first the respondent dated 18.02.2025 is set aside.

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

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

iv) Thereupon, the first 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.

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

29.08.2025

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Index : yes/no
Neutral Citation : yes/no

To

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Krishnan Ramasamy,J.,

KKN

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