IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No. 32867 & 32869 of 2025
and
W.M.P.Nos. 36815, 36816 & 36818 of 2025

M R Pavers,
Represented by its Proprietor,
Mr.Karthirvelu M,
No.77, Jagirkamanaicken Patty,
Jagir Ammapalayam, Salem,
Tamil Nadu – 636 302. ...Petitioner in both petitions

Vs.

1.The Deputy State Tax Officer-II,
(also known as the Deputy Commercial Tax Officer)
Suramangalam Circle,
Salem.

2.The Deputy Commissioner (CT),
Commercial Taxes Building,
Salem, Tamil Nadu. ...Respondents in both petitions

Prayer in W.P.No.32867 of 2025 : 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 files of the 1st respondent herein in

GSTIN/33DVVPK6533D1ZD/2020-21 in FORM GST DRC-07 in Order Reference No.ZD330225186545B dated 19.02.2025 and quash the same.

Prayer in W.P.No.32869 of 2025: 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 files of the 2nd respondent herein in FORM GST APL-02 bearing ARN No.AD330725014271I dated 17.07.2025 and quash the same.

For Petitioner	:	Ms.Siri Chandana K. in both petitions
For Respondents	:	Mr.T.N.C.Kaushik Additional Government Pleader (Tax) in both petitions

Order

Mr.T.N.C.Kaushik, learned Additional 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 W.P.No.32867 of 2025 is to the order dated 19.02.2025 passed by the first respondent for the AY 2020-21 and to quash the same and remand back the matter to the respondent. Challenge in W.P.No.32869 of 2025 is to the order dated 17.07.2025 passed by the 2nd respondent, rejecting the appeal filed by the petitioner on the ground that there is a delay.

3. As far as W.P.No.32867 of 2025 is concerned, the learned counsel for the petitioner would submit that the respondent has issued a show cause notice in Form GST DRC - 01 on 26.11.2024, unfortunately, he failed to note those notices/reminders. 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. As far as W.P.No.32869 of 2025 is concerned, the learned counsel would submit that the petitioner was unaware of the proceedings, since it was uploaded in GST portal and therefore, the delay has occurred.

3.1. It is also submitted by the learned counsel for the petitioner that the petitioner has already deposited 40% 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 Additional Government Pleader (T) for the respondents fairly submitted that since the petitioner has already paid 40% 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 19.02.2025 is set aside and, the delay in filing the appeal is condoned.

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

iii) The respondent is directed to take the appeal on record.

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

v) 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, these Writ Petitions are 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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(also known as the Deputy Commercial Tax Officer)
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2.The Deputy Commissioner (CT),
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Krishnan Ramasamy,J.,

KKN

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