IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.09.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.33552 & 33554 of 2025
& W.M.P.Nos.37703, 37717, 37706 & 37715 of 2025

Rajesh Padmanaban

... Petitioner in both petitions

Vs.

1. The Commercial Tax Officer (ST)
Office of the Assistant Commissioner,
Madipakkam Assessment Circle
3rd Floor Integrated Commercial Taxes and
Registration Building, Mylapore Taluk office
Building Green Ways Road, chennai 600 028

2. The Deputy Commissioner (ST) (FAC)
Tambaram Zone Commercial Tax Department
4th Floor, Room No 422 PAPJM Building
No.1 Greams Road Chennai 600006

3. The Bank Manager
Karur Vysya Bank Limited
Velachery Branch No 12
Velachery Thambaram Main Road
Velachery Chennai 600042

... Respondents in both petitions

Common Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari,

calling for the records in the file of the 1st Respondent and quash the Impugned under section 73 of the Tamil Nadu Goods and Service Tax Act, 2017/Central Goods and Service Tax Act, 2017 including the Impugned Summary of Order in Form GST DRC-07 dated 30.12.2023 issued by the 1st Respondent under Section 73 of the TNGST/CGST Act for the financial years 2017-18, having Reference Number ZD331223273069I, bearing GSTIN 33AMPPP3738F1ZU, along with its annexure dated 30.12.2023 and consequently directing the Respondent No. 2 to lift the Bank attachment of the Petitioners savings account No. 1265155000176329 held with Respondent No.3

calling for the records in the file of the 1st Respondent and quash the Impugned Order under section 73 of the Tamil Nadu Goods and Service Tax Act, 2017/Central Goods and Service Tax Act, 2017 including the Impugned Summary of Order in Form GST DRC-07 dated 24.04.2024 issued by the 1st Respondent under Section 73 of the TNGST/CGST Act for the financial years 2018-19, having Reference Number ZD3304241873577, bearing GSTIN 33AMPPP3738F1ZU along with its annexure dated 24.04.2024 and consequently directing the Respondent No. 2 to lift the Bank attachment of the Petitioners savings account No. 1265155000176329 held with Respondent No.3

For Petitioner
in both petitions : Mr.Abdul Wajith E

For Respondent
in both petitions : Ms.Amirta Poonkodi Dinakaran, GA

COMMON ORDER

These writ petitions have been filed challenging the impugned orders dated 30.12.2023 & 24.04.2024 passed by the respondent.

2. Ms.Amirta Poonkodi Dinakaran, 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 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 respondent

without providing any opportunity of personal hearing to the petitioner. Therefore, these petitions have been filed.

4. Further, he would submit that the petitioner is willing to pay 25% of the disputed tax amount, to the respondent in each case. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned orders.

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, 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 respondent, subject to the payment of 25% of the disputed tax amount as agreed 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 is willing to pay 25% of the disputed tax

amount to the respondent in each case. In such view of the matter, this Court is inclined to set aside the impugned orders dated 30.12.2023 & 24.04.2024 passed by the 1st respondent. Accordingly, this Court passes the following order:-

(i) The impugned orders dated 30.12.2023 & 24.04.2024 are set aside and the matters are remanded to the 1st respondent for fresh consideration on condition that the petitioner shall pay 25% of the disputed tax amount to the respondent, in each case, 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 orders itself have 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 3rd 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.

11. With the above directions, these writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

04.09.2025

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

To

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