IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-04-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 36814 of 2024
AND
WMP NO. 39732 OF 2024,WMP NO. 39733 OF 2024

Tvl Sri Krishna Textiles
Rep by its Managing Partner,
No.138, Kittampalayam,
Kittampalayam Post,
Karumathampatti, Coimbatore, Tamil
Nadu-641659.

Petitioner(s)

Vs

The Assistant Commissioner (ST)
Tiruppur Central -II, circle, Tiruppur,
Tamilnadu,

Respondent(s)

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the records of the impugned assessment order in Ref. No. ZD330824301341W dated 31.08.2024 under Section 73 of the CGST/TNGST Act, 2017 for the Financial Year 2019-20 and uploaded along with the summary of order in DRC-07 from the files of the respondent herein and to quash the same.

For Petitioner(s): Ms.Aparna Nandakumar

For Respondent(s): Mr.V.Prashanth Kiran,
Government Advocate (t)

ORDER

This writ petition has been filed by the petitioner seeking to call for the records of the impugned assessment order in Ref. No. ZD330824301341W dated 31.08.2024 under Section 73 of the CGST/TNGST Act, 2017 for the Financial Year 2019-20 along with the summary of order in DRC-07 on the file of the respondent herein and to quash the same.

2.Learned counsel for the petitioner would submit that the summary of show cause notice dated 29.05.2024 was uploaded in GST Portal Tab. Since the petitioner has failed to file reply, the respondent has passed the impugned assessment order dated 31.08.2024, which was also uploaded in the GST Portal Tab. Since no physical copy of the show cause notice or reminder were served to the petitioner, he was unaware of the proceedings. Thereafter, the petitioner's consultant logged into the GST portal and found that the respondent had passed the impugned assessment order dated 31.08.2024.

3.He would further submit that the respondent had issued only a summary of show cause notice dated 29.05.2024, which contains only one issue. Whereas, in the impugned assessment order dated 31.08.2024, the respondent had raised four issues and determined the disputed tax amount, which is unsustainable. Further, he would also submit that the petitioner is ready and willing to pay 25% of the disputed tax demand in respect of the one issue raised in the summary of show cause notice dated 29.05.2024 and prayed to set aside the impugned order directing the respondent to permit the petitioner to file their reply and provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

4.Learned Government Advocate appearing for the respondent would submit that as per the voluntary submissions made by the learned counsel for the petitioner, subject to the deposit of 25% of the disputed tax demand in respect of the one issue covered in the summary of show cause notice dated 29.05.2024, if the Court feels it appropriate and it is a fit case for re-consideration, this Court may consider and pass orders.

5.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondent and perused the materials available on record.

6.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. 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.

7.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.

8.Therefore, this Court finds that there is a lack of opportunities being provided to serve the notices/orders etc., effectively to the petitioner. Hence, this Court is inclined to set-aside the impugned order with terms, by issuing the following directions:-

(i) The order impugned herein is set aside on condition that the petitioner deposits 25% of the disputed tax amount in respect of the one issue covered in the summary of show cause notice dated 29.05.2024, as agreed by the petitioner, within a period of three weeks from the date of receipt of a copy of this order.

(ii) The petitioner shall file their reply/objection along with the required documents, if any, within a period of two weeks thereafter.

(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.

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

03-04-2025

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

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To

The Assistant Commissioner (ST)
Tiruppur Central -II Circle, Tiruppur
Tamilnadu.

KRISHNAN RAMASAMY J.

rst

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