BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)Nos.2826 and 2827 of 2025

Tvl. Nirmal Singh Contractor,
Rep. by its Proprietor, Nirmal Singh,
No.10/99, Moonkilvilai, Kalkulam,
Kalpadi – 629 204,
Kanniyakumari District. ... Petitioner in both the W.Ps.

-vs-

The State Tax Officer,
Thuckalai-2 Assessment Circle @ Nagercoil,
Kanniyakumari District. ... Respondent in both the W.Ps.

PRAYER IN W.P.(MD)No.2826 of 2025:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for records pertaining to the impugned order passed by the respondent vide his proceedings in GSTIN.33CQIPB6767P1Z9/2023-24, dated 21.10.2024, quash the same as it is illegal and in gross violation of principles of natural justice and further direct the respondent to re-do the assessment afresh after providing the petitioner an opportunity of personal hearing as per the provisions of the GST Act, 2017.

PRAYER IN W.P.(MD)No.2827 of 2025:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for records pertaining to the impugned order passed by the respondent vide his proceedings in GSTIN.33CQIPB6767P1Z9/2024-25, dated 12.09.2024, quash the same as it is illegal and in gross violation of principles of natural justice and further direct the respondent to re-do the assessment afresh after providing the petitioner an opportunity of personal hearing as per the provisions of the GST Act, 2017.

For Petitioner in both the W.Ps.	:	Mr.A.Satheesh Murugan
For Respondent in both the W.Ps.	:	Mr.J.K.Jeyaseelan Government Advocate

COMMON ORDER

These Writ Petitions have been filed seeking to quash the impugned orders passed by the respondent, dated 21.10.2024 and 12.09.2024, and further direct the respondent to re-do the assessment afresh after providing an opportunity of personal hearing to the petitioner as per the provisions of the GST Act, 2017.

2. Heard both sides. With the consent of both sides, this Writ Petition is disposed of at the admission stage itself.

3. According to the petitioner, they are engaged in Works Contract services rendered to Government Departments. In the course of their business activities, they have been filing monthly returns, reporting outward supplies in the prescribed GSTR-1 (outward supply statement), and paying the corresponding tax through GSTR-3B monthly returns after adjusting the eligible Input Tax Credit (ITC) as required under the GST Act, 2017.

4. The petitioner submits that for the assessment years 2023-2024 and 2024-2025, they have not received any physical Intimation Notice in Form DRC-01A, Show Cause Notice in Form DRC-01, or any Impugned Order. However, to their shock and surprise, they recently received a message from the respondent's office regarding an alleged tax demand for the said period. Immediately, upon receiving this information, the petitioner visited the respondent's office to enquire about the demand. The respondent informed the petitioner that the impugned order had been uploaded on the GSTN common portal on 21.10.2024 and 12.09.2024.

5. The petitioner further submits that the respondent claimed that a Show Cause Notice was sent via RPAD (Registered Post with Acknowledgment Due) and was received by the petitioner's wife. However, at the relevant time, the petitioner was hospitalized due to a fall from a tree, leading to treatment for a low back injury. The impugned orders were merely uploaded on the common portal without being physically served on the petitioner. Such action is not sustainable in law and is contrary to Section 169 of the GST Act, which mandates proper service of notices and orders.

6. The petitioner further drew the attention of this Court to the principles laid down by the Calcutta High Court in **M/s.LGW Industries Limited and others** vs. **Union of India and others** (W.P.A.No.23512 of 2019, dated 13.12.2021) and reaffirmed by the Division Bench of the Hon'ble Calcutta High Court in **Suncraft Energy Private Limited and another** [**(2023) 117 GSTR 78**], wherein it has been held that if a taxpayer has substantiated their genuine purchases with invoices and payment details, no tax demand can be raised arbitrarily. In the present case, according to the petitioner, no opportunity was given to them to substantiate their case.

7. The learned Government Advocate appearing for the respondent submitted that the petitioner has an alternative remedy of appeal before the Appellate Deputy Commissioner (GST), Madurai, under Section 107 of the Tamil Nadu Goods and Services Tax Act, 2017, against the impugned orders.

8. In view of the above submission, the petitioner is directed to first exhaust the statutory remedy available under law before approaching this Court. The petitioner shall prefer an appeal within one month from the date of receipt of a copy of this order. Upon filing of the appeal, the Appellate Deputy Commissioner (GST), Madurai, shall dispose of the same on merits and in accordance with law, within a period of two months thereafter.

9. With the above observations and directions, these Writ Petitions stand disposed of. There shall be no order as to costs.

NCC : Yes / No **05.02.2025**
Index : Yes / No
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Copy to:-

The Appellate Deputy Commissioner (GST),
4^{th} Floor,
Commercial Taxes Buildings,
Dr.S.V.K.S.Thangaraj Salai,
Madurai – 625 020.

To:-

The State Tax Officer,
Thuckalai-2 Assessment Circle @ Nagercoil,
Kanniyakumari District.

VIVEK KUMAR SINGH, J.

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Common order in
W.P.(MD)Nos.2826 and 2827 of 2025

05.02.2025