



W.A.(MD)Nos.1934 and 1935 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.07.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A.(MD)Nos.1934 and 1935 of 2025
and
C.M.P.(MD)Nos.11019 and 11020 of 2025**

W.A.(MD)No.1934 of 2025:-

Tvl.Dimora,
Rep. by its Managing Partner,
Mr.A.Muruganantham,
4th Floor, 29/30, Ambigai City Center,
Swaminatha Sastri Road,
Thillai Nagar,
Tiruchirappalli 620 018.

... Appellant

Vs.

- 1.The Assistant Commissioner (State Tax),
Woraiyur Assessment Circle,
C/2, 2nd Floor, 2nd Cross,
Thillai Nagar West,
Trichy 620 018.
- 2.The Deputy State Tax Officer - II,
Office of the Commercial Tax Department,
Woraiyur Assessment Circle,
C2, 2nd Floor, 2nd Cross, Thillai Nagar (West),
Tiruchirappalli 620 018.



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3.The Deputy Commercial Tax Officer,
Commercial Tax Department,
Woraiyur Assessment Circle,
C2, 2nd Floor, 2nd Cross,
Thillai Nagar (West),
Tiruchirappalli 620 018.

4.The Branch Manager,
ICICI Bank Limited,
Thuraiyur Branch,
199-2A, Trichy Road Madhurapuri,
Thuraiyur 621 010

5.The Branch Manager,
ICICI Bank Limited,
Neelankarai Branch,
Plot No.20, 21, Rajasthan Nagar ECR,
Neelkarai, Chennai 600041.

6.The Branch Manager,
ICICI Bank Limited,
Bangalore – NR Road,
100-1, Narasimha Raja Road,
Opp. Town Hall,
Bangalore 560 002

7.The Branch Manager,
State Bank of India,
Thillai Nagar,
First Main Road, Trichy.

... Respondents

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow
the writ appeal by setting aside the order passed in W.P.(MD)No.16202
of 2025 dated 16.06.2025 on the file of this Court.



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For Appellant : Mr.S.Muthuvenkatraman.

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For Respondents : Mr.R.Suresh Kumar
Addl. Government Pleader for R1 to R3.
Mr.Krishna
For M/s.Acuity Law Associates for R4 to R6.

W.A.(MD)No.1935 of 2025:-

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7.The Branch Manager,
State Bank of India,
Thillai Nagar,
First Main Road, Trichy.

... Respondents

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD)No.16203 of 2025 dated 16.06.2025 on the file of this Court.

For Appellant : Mr.S.Muthuvenkatraman.

For Respondents : Mr.R.Suresh Kumar
Addl. Government Pleader for R1 to R3.
Mr.Krishna
For M/s.Acuity Law Associates for R4 to R6.



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COMMON JUDGMENT
(By G.R.SWAMINATHAN, J.)

Heard both sides.

2.The appellant was running a hotel business. The case on hand pertains to the assessment years 2018 – 2019 and 2019 – 2020. The hotel business ran into losses and had to be closed. Even the annual returns were not filed. Hence, GST registration was cancelled. Whiles, the orders impugned in the writ petitions came to be passed by the assessing officer calling upon the appellant to pay a certain sum towards tax and penalty. Challenging the same, appellant filed W.P.(MD)Nos.16202 and 16203 of 2025. The learned Single Judge disposed of the writ petition vide order dated 16.06.2025 in the following terms:-

“5. This Court is of the view that the order passed by this Court, dated 28.02.2024 pursuant to which communication, dated 03.10.2024 was issued, is not in favour of the petitioner, as the impugned orders, dated 14.08.2024 and 25.04.2024 were passed long before the communication issued on 03.10.2024



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6. *Be that as it may, whenever there has been delay and the assessee has not participated in the proceedings that preceded the assessment order, this Court is inclined to rescue the persons like the petitioner by permitting them to pay the disputed tax. On payment of such 25% of the disputed tax, the order shall stand quashed with liberty to the parties to file a reply with further direction to the authorities to pass fresh orders on merits and in accordance with law.*

7. *I see no reasons to take a different view in the present case. Therefore, these writ petitions are disposed of by quashing the impugned orders subject to the petitioner deposits 25% of the disputed tax in cash. The respondents shall thereafter pass fresh order on merits and in accordance with law. It is made clear that once the petitioner makes a pre-deposit as has been ordered above, which was consistently followed by this Court, respondents shall pass fresh orders on merits and in accordance with law. It is open to the petitioner to take advantage of the recent order that is said to have been passed in the context of Section 168A of the respective Goods and Services Tax Acts. The petitioner's bank accounts shall be de-frozen subject to appropriation of 25% of the disputed tax. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed."*

Aggrieved by the direction to deposit 25% of the disputed tax in cash, these writ appeals have been filed.



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3.It is true that the precedents on this issue are at variance with each other. In some cases, the learned Single Judges have directed the assesseees to pay 25% of the disputed tax. In many other cases, remand orders have been passed without any such stipulation.

4.Since there is no consensus between the parties, we have to necessarily go into the merits of the matter. Section 169 of the Central Goods and Services Tax Act, 2017 stipulates that before passing final order, notice has to be served on the assessee and the mode of service should be as stipulated in Section 169 of the Act. The said provision reads as under:-

“169.Service of notice in certain circumstances.

(1) Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely:-

(a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in



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connection with the business, or to any adult member of family residing with the taxable person; or

(b) by registered post or speed post or courier with acknowledgment due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or

(c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or

(d) by making it available on the common portal; or

(e) by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or

(f) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.

(2) Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is



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tendered or published or a copy thereof is affixed in the manner provided in sub-section (1).

(3) When such decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.

5.In this case, admittedly, notice was only made available on the common portal. Notice was not sent through RPAD nor was it served in person. As rightly pointed out by the learned counsel for the appellant, in view of cancellation of GST registration, they could not access the portal.

6.When the assessee could not even access the portal, we have to conclude that there was no notice of service on the assessee. In this view of the matter, we hold that the orders impugned in the writ petitions were vitiated on account of breach of principles of natural justice. They stand quashed. The matter is remitted to the file of the assessing officer to pass orders afresh in accordance with law.



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7.These writ appeals are allowed accordingly. No costs.

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Consequently, connected miscellaneous petitions are closed.

(G.R.S. J.) & (K.R.S. J.)
23.07.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias

To:

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