BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **14.08.2025**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No. 22304 of 2025
and
W.M.P.(MD) No.17431 of 2025

Raja Muthukumar ... Petitioner

Vs

1. Commercial Tax Officer,
Kovilpatti Assessment Circle - I,
Ettayapuram Road,
Kovilpatti-628501.

2. The Deputy Commissioner GST(Appeals),
1st Floor,
Commercial Taxes Buildings,
South High Ground Road,
Palayamkottai,
Tirunelveli-627002. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for records in Reference No. ZD3302251790810/2020-21 dated 18.02.2025 issued by the first respondent and quash the same as illegal and in violation of the principles of natural justice

For petitioner : Mr. S. Karthik

For respondents : Mr.J.K.Jayaselan
Government Advocate

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ORDER

This Writ Petition is disposed of at the time of admission with the consent of the learned counsel for the petitioner and learned Government Advocate for the respondents.

2. This petitioner is before this Court against the impugned order, dated 18.02.2025 passed for the tax period between April-2020 and March-2021.

3. The specific case of the petitioner is that the petitioner had closed the business as early as 30.09.2023 and thereafter, applied for cancellation of registration on 30.10.2023, which was cancelled on 06.11.2023.

4. It is further case of the petitioner that the petitioner had also filed a Return in GSTR 10 on 18.11.2023 for the aforesaid tax period. It is submitted that since the petitioner had closed down the business and the registration was

cancelled, the petitioner failed to notice that the notice was issued a notice in DRC 01 dated 27.11.2023, which is now culminated in the impugned order, dated 18.02.2025.

5. The specific case of the petitioner is that the petitioner has not also replied to the notice in DRC 01, dated 27.11.2023 and thus, suffered the impugned order dated 18.02.2025.

6. The learned counsel for the petitioner has placed a reliance on the decision of the Madhya Pradesh High Court in the case of ***Concord Tieup Pvt. Ltd., vs. The State of Madhya Pradesh rendered in W.P.No.26956 of 2022 dated 25.04.2023***.

7. Further, the learned counsel for the petitioner would draw attention to the decision of this Court rendered in ***Sakthi Steel Trading vs. Assistant Commissioner (ST) in W.P.No.4122 of 2022, dated 29.01.2024***.

8. The learned Government Advocate for the respondents, on the other hand, submits that the petitioner has already opted to file an appeal before the

Appellate Authority on 18.07.2025 and submits that although there is a marginal delay of 30 days beyond the condonable period of limitation under Section 107 of respective GST enactments, 2017, a direction can be given to the Appellate Authority, namely, the second respondent herein to dispose of the appeal on merits.

9. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate for the respondents.

10. This Court has taken a categorical view in the case ***Sakthi Steel Trading*** (cited supra), in the context of the case where GST registration is cancelled. Relevant portion of the order reads as under:

"13. Both Section 169 of the respective GST enactments and Rule 52 of the T.N. GST Rules, 1959 are reproduced below for easy reference:-

52 of the TNGST Rules, 1959	*Section 169 of respective GST Enactment, 2017*

52(1). Service of notices: The service on a dealer of any notice, summons or order under the Act or these rules may be effected in any of the following ways, namely: *(a). by giving or tendering it to such dealer or his manager or agent or the legal practitioner appointed to represent him or to his authorised representative, or* *Explanation.- Endorsement by person who derlivers the notice, etc., of having tendered or given it will be proof for the purpose of this sub-rule.* *(b). if such dealer or his manager or agent or the legal practitioner appointed to represent him, or his authorised representative is not found, by giving or tendering it to any adult member of his family;* *(c). if the address of such dealer is known to the assessing authority, by sending it to him by registered post;* *(d). if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence.* *Rule 52(2) - Where any Hindu undivided family, firm or other association of persons is partitioned, dissolved or discontinued, notice, summons or orders issued under the Act or these rules may be served on any member of the Hindu undivided family, any person who was a partner (not being a minor) or member of the*	*(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 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*

14. Section 169(1)(c) of the respective GST enactments specifically provides that any decision, order, summons, notice or other communication under them or the rules made thereunder may be served by any one of the specified methods therein.

15. Section 169(1)(c)of the respective GST enactments statutorily recognises communication of any decision, order, summons, notice or any other communication under that through email to the address provided at the time of registration or as amended from time to time.

16. Therefore, the decisions rendered in the context of Rule 52 of the T.N.G.S.T.Rules, 1959 cannot be straight away applied to in this era of technology under Section 169 of the respective GST Enactments.

17. Section 169 of the respective GST enactments is a progressive provision intended to integrate technology with the assessment proceedings under the provisions of the respective GST Enactments. Section 169 of the respective GST Enactment is a step to modernize the tax administration in the country by taking advantage of available technology.

18. At the same time, the Court cannot loose sight of the fact that although there is advancement in the technology and it is omnipresent everywhere and Section 169(1)(c) of the respective GST Enactments has statutorily recognized communication through e~mail, all men of commerce from the business community particularly small traders, small service provider and small manufacturers may not be ready to receive and respond. They may be technologically challenged which may impair them to respond autonomously to emails sent to them in the dash board of GST Web portal on their computer screen or Tab or smart phones.

19. They may not be able to keep a watch on the traffic of slew of notices and communications that are emailed to them to their registered email ids in the web portal, although it is a convenient mode for dissemination and communications of notice, orders, summons, etc. Unless, they have a dedicated team of persons *handling their e-mails accounts, they may not even notice receipt of any notice, notification, summons in their e-mail.*

20. If, notice sent to designated/registered email ID?s as is contemplated in Section 169(1)(c) of the respective GST Enactments is not responded by an assessee, it would be incumbent on the part of the department to serve atleast another notice once through any of the other modes of service of notice prescribed under Section 169(1) of the respective GST Enactments so as to ensure there communication and there is no violation of principles of natural justice.

21. This will obviate recalcitrant and obstinate assesse?s to scuttle the proceedings by stating that there is a violation of principles of natural justice.

22. Thus, as a matter of prudence, it is advisable for the department to serve notice on such assessees through other mode of communications prescribed when they fail to respond to the summons, orders, notices and other communications etc., sent to them through email under Section 169 (1) (c) of the respective GST Enactments.

23. Therefore, there has to be some amount of flexibility. Rigidity in the administration of tax in such matters may not serve the purpose and can be counter productive. There has to be a proper communication as otherwise exparte decisions are susceptible to be successfully challenged and declared as arbitrary for violation of principles of natural justice.

24. Under these circumstances, the impugned order is set aside and the case is remitted back to the respondent to pass a fresh order on merits in accordance with law preferably within a period of 45 days from date of receipt of this order.

25. The impugned order that is quashed by this order shall be treated as corrigendum to the notices issued to the petitioner. Petitioner shall file a reply to the notices positively with the respondent within a period of 30 days from date of receipt of this order.

26. In case, petitioner fails to file a reply within such time, this order shall automatically stand vacated, which case, the respondent *is liberty to proceed against the petitioner as if the present writ petition is dismissed.*

27. Writ petition stands allowed with the above observation. Consequently, miscellaneous petitions are closed. No costs."

11. This view has been also taken by the Hon'ble Division Bench of Madhya Pradesh High Court in the case of ***Concord Tieup Pvt. Ltd.,*** (cited supra) *vide* its order dated 25.04.2023. The same has been following by this Court in several Writ Petitions.

12. Considering the fact that there is violation of principals of natural justice and even though beyond the condonable period of limitation the petitioner filed the appeal, I am inclined to set aside the impugned order and remit the case back to the first respondent to pass a fresh orders on merits.

13. The petitioner shall file a reply to the notice in DRC 01 dated 26.11.2024 within a period of thirty (30) days from the date of receipt of a copy of this order by treating the impugned order as addendum to the Show Cause Notice in DRC 01 dated 26.11.2024.

14. In case the petitioner complies with the above stipulation, the first respondent shall proceed to pass fresh orders on merits and in accordance with law as expeditiously as possible preferably within a period of three (3) months thereafter, after hearing the petitioner.

15. In case the petitioner fails to comply with the above condition stipulated above, the respondents are at liberty to proceed against the petitioner in accordance with law as if this Writ Petition was dismissed *in limine* today.

16. This Writ Petition is allowed, with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes / No
apd

14.08.2025

To
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C.SARAVANAN, J.

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