



W.P.No.29474 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.08.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.29474 of 2025
& W.M.P.Nos.33032 & 33033 of 2025

Tvl.Fathima Agencies Private Limited,
Rep. by its Director,
Mr.E.Roobert,
No.25, Royapettah High Road,
Royapettah, Chennai - 600 014.

... Petitioner

Vs.

1.The Assistant Commissioner (ST),
Royapettah Assessment Circle,
Integrated Commercial Taxes Building,
2nd Floor, Room No.205,
Nandanam, Chennai - 600 035.

2.The Deputy Commissioner (CT),
GST Appeals, Chennai-I,
Main Building,
PAPJM Building (Main Building),
Greaves Road, Chennai - 600 008.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorari calling for the records of the first
respondent in GSTN: 33AAACF3249H1ZX/19-20 dated 16.08.2024, the



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order under section 73 dated 19.08.2024 and the summary of the order in Form GST DRC-07 dated 19.08.2024 issued in Reference No:ZD330824158320L and the consequential impugned orders dated 25.03.2025 passed by the second respondent in Form GST APL-02 having reference No.ZD330325195128C and quash the impugned proceedings as passed contrary to the provisions of the CGST/TNGST Act, 2017 and against the principles of natural justice.

For Petitioner : Mr.P.Rajkumar

For Respondents : Ms.Amirta Poonkodi Dinakaran,
Government Advocate (T)

ORDER

This writ petition has been filed challenging the impugned assessment order dated 16.08.2024 and the summary of the order dated 19.08.2024 and the impugned appeal rejection order dated 25.03.2025, passed by the respondents.

2. Ms.Amirta Poonkodi Dinakaran, learned Government Advocate, takes notice on behalf of the respondents. By consent of the parties, this main writ petition is taken up for disposal at the admission stage itself.



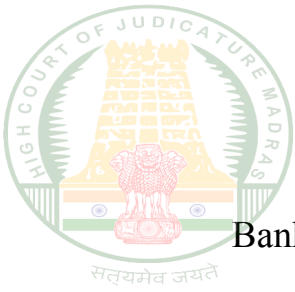
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3. The learned counsel for the petitioner would submit that in this case, all notices/communications were uploaded by the first respondent under the “View Additional Notices and Orders” column in the GST common portal. Since the petitioner was not aware of the said notices, they failed to file their reply within the time. Under these circumstances, the assessment order dated 16.08.2024 and the summary of the order dated 19.08.2024 came to be passed by the first respondent without providing any opportunity of personal hearing to the petitioner. Challenging the said assessment order, the petitioner filed an appeal with a delay of 64 days, which was also rejected on the ground of limitation on 25.03.2025. He further submitted that since the assessment order is also under challenge before this Court, he requested this Court to condone the delay in filing the Appeal and direct the Appellate Authority to consider and pass appropriate orders.

4. Further, he would submit that the petitioner has already deposited 10% of the disputed tax amount as statutory pre-deposit for filing an appeal and further paid a sum of Rs.78,380/- through Net

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Banking to the respondents. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the respondents by setting aside the impugned appeal rejection order dated 25.03.2025.

5. On the other hand, the learned Government Advocate appearing for the respondents would fairly admit that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned assessment order dated 16.08.2024 and the consequential summary order dated 19.08.2024. Therefore, she requested this Court to remit the matter back to the respondents, subject to the verification of aforesaid payment by the petitioner.

6. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents 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

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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 assessment order dated 16.08.2024 and the consequential summary of the order dated 19.08.2024 came to be passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notice. Challenging the said assessment order, the petitioner preferred an appeal on 19.02.2025, which was also rejected on the aspect of limitation, since the delay is beyond the condonable period i.e., after 64 days from the date of assessment order.

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*

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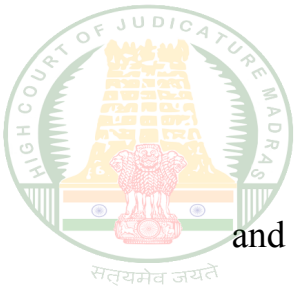
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order by fulfilling the empty formalities will not serve any useful purpose and the same will only pave way for multiplicity of litigations, not only wasting the time of the Officer concerned, but also the precious time of the Appellate Authority/Tribunal 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 they had already deposited 10% of the disputed tax amount as pre-deposit for filing an appeal and further paid a sum of Rs.78,380/- through Net Banking to the respondents. In such view of the matter, in order to avoid unnecessary further litigations, this Court feels it appropriate to set aside the impugned assessment order dated 16.08.2024

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and the consequential summary of the order dated 19.08.2024, instead of condoning the delay in filing the appeal and directing the second respondent/appellate authority to take appeal on record. Accordingly, this Court passes the following order:-

i) The impugned assessment order dated 16.08.2024 and the consequential summary of the order dated 19.08.2024, are set aside and the matter is remanded to the respondents for fresh consideration.

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 receipt of a copy of this order.

(iii) On filing of such reply/objection by the petitioner, the respondents 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.

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



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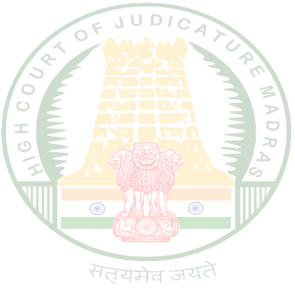
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Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To

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