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W.P.No.16632 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

**W.P.No. 16632 of 2025**

**and**

**W.M.P.No.18812 of 2025**

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Represented by its Proprietor Smt. Deepali  
Chawla 2/7 1st Floor 2nd Floor 2nd Floor  
and 3rd Floor  
Murungapalayam South Avinashi Road  
Tirupur, T.N. 641 603.

...Petitioner

Vs.

DEPUTY STATE TAX OFFICER-2  
TIRUPPUR (NORTH) -1 ASESSMENT CIRCLE  
42 CT NEW BUILDING KUMARAN ROAD  
TIRUPPUR-641 601.

...Respondent

### **Prayer**

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records relating to the impugned order bearing GSTIN 33AJIPD6949E1ZA/19-2020 dated 27.08.2024 along with the summary order Form GST DRC-07 bearing Reference No. ZD330824246308A dated 27.08.2024 passed by the Respondent



WEB COPY



W.P.No.16632 of 2025

For Petitioner : M/s..N.Asmitha  
For Respondent : Mr.T.N.C.Kaushik  
Additional Government Pleader (T)

**Order**

Heard M/s..N.Asmitha learned counsel appearing for the petitioner and Mr.T.N.C.Kaushik, learned Additional Government Pleader (T) who takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order passed by the respondent dated 27.08.2024 along with the summary order Form GST DRC-07 dated 27.08.2024 and to quash the same.

3. The learned counsel for the petitioner would submit that a show cause notice and all other allied communications were uploaded on the GST on-line portal, under the different column "View Additional notices/orders", which was unnoticed by the petitioner and hence, the petitioner failed to file reply to such show cause notice and appear before the respondent, however,



W.P.No.16632 of 2025

the respondent, without even affording an opportunity of hearing to the petitioner, passed the impugned order confirming the proposals contained in the show cause notice and uploaded the said order on the Gst On-line Portal, which even was unknown to the petitioner and only when the bank account of the petitioner came to be attached, the petitioner came to know of the impugned proceedings and challenging the same, the present Writ Petition is filed.

**3.1** The learned counsel contended that the impugned order suffers from violation of principles of natural justice, as the petitioner has not been heard before passing the impugned order and is liable to be set aside. It is further submitted that the respondent, in furtherance of the impugned proceedings initiated recovery proceeding against the petitioner and entire disputed tax has been recovered. Therefore, the learned counsel prays for setting aside the impugned order without imposing any condition on the petitioner.



W.P.No.16632 of 2025

4. The learned Additional Government Pleader for the respondent

would submit that since it is stated that entire disputed tax has been recovered from the petitioner, subject to the verification of such statement, the impugned order may be set aside and the matter may be remanded to the respondent for fresh consideration.

5. I have given due consideration to the submissions made on either side 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. Further, the original of the said show cause notice was not furnished to the petitioner in person. 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.



W.P.No.16632 of 2025

**6.1** No doubt, sending notice by uploading in portal is a sufficient

service, but, the Officer who finds no response from the petitioner to the show cause notices, instead of sending repeated reminders, 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, the service of notice will not be deemed to 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 would 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.



W.P.No.16632 of 2025

**6.2** Therefore, this Court is inclined to set aside the impugned order, as the same suffers from the violation of principles of natural justice.

Further, taking into consideration of the fact that the respondent, in pursuance of the impugned proceeding, already recovered entire disputed tax from the petitioner's bank account, this Court is not inclined to impose any condition requiring the petitioner to make any deposit.

**6.3** Accordingly, this Court is inclined to pass/issue the following orders/directions:-

i) The impugned order passed by the respondent 27.08.2024 along with the summary order Form GST DRC-07 dated 27.08.2024 passed by the Respondent are set aside.

ii) Consequently, the matter is remanded to the respondent for fresh consideration.

iii) The petitioner is directed to file a reply along with supportive documents within a period of two weeks from the date of receipt of a copy of this order.



W.P.No.16632 of 2025

WEB COPY

iv) Thereupon, the respondent is directed to consider the reply and shall issue a 14 clear days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

7. In the result, the Writ Petition is allowed on the aforesaid terms.

No costs. Consequently, connected Miscellaneous Petition is closed.

**02.06.2025**

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Index : yes/no

Neutral Citation : yes/no

To

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**W.P.No.16632 of 2025**

**Krishnan Ramasamy,J.,**

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**W.P.No. 16632 of 2025**

**02.06.2025**