



WEB COPY



<https://www.taxrealtime.in>

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.09.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.24684 & 24685 of 2025

and

WMP(MD)Nos.19379, 19381, 19393 & 19394 of 2025

Sharp Tanks and Structural Private Limited,
Rep.by its Authorised Rep. Smt.Nisha Menon,
Door No.14, Muniyasampuram,
1st street, Thoothukudi,
Tamil Nadu – 628 003.

... Petitioner in both cases

Vs.

1.The Deputy Commissioner (GST) (Appeals),
Camp Office at 1st Floor,
Commercial Taxes Building,
Palayamkottai, Tirunelveli – 627 002.

2.The State Tax Officer (Survey Unit),
O/o.The Joint Commissioner (ST) (INT),
Tirunelveli – 627 002.

... Respondents in both cases

Prayer in WP(MD). 24684/ 2025 : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd Respondent vide the impugned Order issued in Form GST DRC-07 bearing Reference No.ZD330224171312X dated 28.02.2024 for the financial year 2021-22 and quash the same and to



<https://www.taxrealtime.in>

direct the 1st Respondent to condone the delay and admit the appeal and to dispose on merits or pass such further or other Orders as this Court may deem fit and proper in the facts and circumstances of the case and thus render justice.

Prayer in WP(MD). 24685/ 2025 :

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of CERTIORARIFIED MANDAMUS, to call for the records of the 2nd Respondent vide the impugned Order issued in Form GST DRC-07 bearing Reference No.ZD3302241738791 dated 28.02.2024 for the financial year 2020-21 and to quash the same and to direct the 1st Respondent to condone the delay and admit the appeal and to dispose on merits and pass such further or other orders as this Court may deem fit and proper in the circumstances of the case and thus render justice.

In both cases :-

For Petitioner : Mr.S.Jaikumar
Mr.Nitin Chopra

For Respondents : Mr.Sureshkumar,
Additional Government Pleader

COMMON ORDER

The petitioner herein is an assessee registered with the second respondent. Surprise inspection was conducted on the petitioner's business premises on 10.11.2022 and 11.11.2022. This was followed by issuance of show cause notices dated 28.02.2023 under Section 74 of the TNGST Act. Demands were made for the financial years



<https://www.taxrealtime.in>

2020-21 and 2021-22. Personal hearing notices were also issued. The petitioner submitted replies in response to the notices and also attended the personal hearing held on 03.10.2023. Not satisfied with the stand of the petitioner, the impugned orders were passed levying tax, interest and penalty. Challenging the same, these writ petitions have been filed.

2.As against an order passed under Section 74 of the Act, the assessee has the remedy of appeal. But an appeal has to be filed within three months as per Section 107 of the Act. There is provision for condoning the delay of 30 days. If within this outer time limit, an appeal is not filed, the appellate authority would not be competent to entertain the appeal. The petitioner submits before this Court that the impugned orders were not served on them and that they were only uploaded in the GSTN Portal. Since the petitioner was in the dark, he missed the time line for filing the appeals. The petitioner wants this Court to entertain the challenge to the impugned orders in writ proceedings straightaway. The writ prayer appears to have been erroneously worded. The actual relief which the petitioner wants is probably a passport to move the appellate authority.

3.The stand of the respondents is that since the impugned



<https://www.taxrealtime.in>

orders had been uploaded in the portal, the clock would start ticking from the said date. The learned Additional Government Pleader took me through the statutory scheme, particularly, Section 169 of the Act r/w. Rule 142. Relying on a catena of case-laws, he contended that the writ petitioner having missed the bus, can only rue their fate and that the hands of this Court are totally tied.

4. I carefully considered the rival contentions. The point for determination is whether uploading the impugned order in the GSTN portal alone is sufficient and whether the limitation for filing appeal under Section 107 of the Act would start running from the date of uploading.

5. The relevant provisions are Section 169 of the Act and Rule 142 of the Tamil Nadu Goods and Services Tax Rules, 2017. They read as follows :

"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—



WEB COPY

<https://www.taxrealtime.in>

- (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 acknowledgement 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.



WEB COPY

<https://www.taxrealtime.in>

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

“142. Notice and order for demand of amounts payable under the Act.- (1) The proper officer shall serve, along with the (a) notice issued under Section 52 or Section 73 or Section 74 or Section 76 or Section 122 or Section 123 or Section 124 or Section 125 or Section 127 or Section 129 or Section 130, a summary thereof electronically in FORM GST DRC-01,

(b) statement under sub-section (3) of Section 73 or subsection (3) of Section 74, a summary thereof electronically in FORM GST DRC-02, specifying therein the details of the amount payable.

[(1A) The [proper officer may], before service of notice to the person chargeable with tax, interest and penalty under sub-section (1) of Section 73 or subsection (1) of Section 74, as the case may be, [communicate] the details of any tax, interest and penalty as ascertained by the said officer, in PART A of FORM GST DRC-01A]



WEB COPY

<https://www.taxrealtime.in>

(2) Where, before the service of notice or statement, the person chargeable with tax makes payment of the tax and interest in accordance with the provisions of subsection (5) of Section 73 or, as the case may be, tax, interest and penalty in accordance with the provisions of sub-section (5) of Section 74, or where any person makes payment of tax, interest, penalty or any other amount due in accordance with the provisions of the Act [whether on his own ascertainment or, as communicated by the proper officer under sub-rule (1A)] he shall inform the proper officer of such payment in FORM GST DRC-03 and the proper officer shall issue an acknowledgement, accepting the payment made by the said person in FORM GST DRC-04.

[(2A) Where the person referred to in sub-rule (1A) has made partial payment of the amount communicated to him or desires to file any submissions against the proposed liability, he may make such submission in PART B of FORM GST DRC01A]

(3) Where the person chargeable with tax makes payment of tax and interest undersub-section (8) of Section 73 or, as the case may be, tax, interest and penalty under sub-section (8) of Section 74 within thirty days of the service of a notice under sub-rule (1), or where the person concerned makes payment of the amount referred to in subsection (1) of Section 129 within [seven days of the notice issued under sub-section (3) of Section 129 but before the issuance of order under the said sub-section (3)], he shall intimate the proper officer of such



WEB COPY



<https://www.taxrealtime.in>

payment in FORM GST DRC-03 and the proper officer shall issue an order in FORM GST DRC-05 concluding the proceedings in respect of the said notice.

(4) The representation referred to in sub-section (9) of Section 73 or sub-section (9) of Section 74 or sub-section (3) of Section 76 or the reply to any notice issued under any Section whose summary has been uploaded electronically in FORM GST DRC01 under sub-rule (1) shall be furnished in FORM GST DRC-06.

(5) A summary of the order issued under Section 52 or Section 62 or Section 63 or Section 64 or Section 73 or Section 74 or Section 75 or Section 76 or Section 122 or Section 123 or Section 124 or Section 125 or Section 127 or Section 129 or Section 130 shall be uploaded electronically in FORM GST DRC-07, specifying therein the amount of [tax, interest and penalty, as the case may be, payable by the person concerned].

(6) The order referred to in sub-rule (5) shall be treated as the notice for recovery.

(7) Where a rectification of the order has been passed in accordance with the provisions of section 161 or where an order uploaded on the system has been withdrawn, a summary of the rectification order or of the withdrawal order shall be uploaded electronically by the proper officer in FORM GST DRC-08.]

6.It is necessary to have a rapid look at the precedents on the subject. Let me first catalogue the rulings relied on by the respondents.



<https://www.taxrealtime.in>

In **Pandidorai Sethupathi Raja v. Superintendent of Central Tax, Nungambakkam Zone IV, Chennai Central Range, Chennai**

(**2022 SCC OnLine Mad 8986**), it was held by Dr.Justice Anita Sumanth that making an order available on the common portal would tantamount to “tendering” of that order to the recipient and that uploading of orders upon the common portal constitutes “proper mode of service”. Another learned Judge (Mr.Justice Mohammed Shaffiq) of this Court vide order dated 09.04.2025 in WP No.33562 of 2025 etc batch., followed **Pandidorai**. The order dated 03.01.2023 made in **WP No.35115 of 2022** (by Mr.Justice M.Sundar) is on the same lines.

The High Court of Kerala in **Koduvayur Constructions v. Assistant Commissioner-Works Contract, Palakad (2023 SCC OnLine Ker 11392)** held that the assessee has the bounden duty to verify the common portal and that any decision, order, summons, notice or communication can be served on the assessee through anyone of the methods mentioned in Clauses (a) to (f) of sub-section (1) of Section 169 of the Act. The Division Bench of the High Court of Madhya Pradesh in **Ram Prasad Sharma v. Chief Commissioner and anr (2020 SCC OnLine MP 4650)** held that the show cause notice/order cannot be



<https://www.taxrealtime.in>

communicated by e-mail but should be uploaded on the website of the Revenue. The Division Bench of the Punjab and Haryana

High Court in New **Hanumat Marbles v. State of Punjab (2023 SCC OnLine P&H 7171)** is also on the same lines. The learned Additional Government Pleader also submitted that when the statutory provisions have not been struck down as unconstitutional, the writ court ought not to stop its implementation (vide **Dhanraj v. Vikram Singh (2023 LiveLaw (SC) 456)**).

7. On the other hand, the learned counsel appearing for the writ petitioner submitted that the view taken in **WP(MD)No.26481 of 2024 (Shahul Hameed vs. CTO, Tuticorin-II)** (by Mr. Justice K. Kumaresh Babu) deserves to be adopted. Another learned Judge of this Court had taken a consistent view that uploading in the portal may be sufficient service but not an effective service (vide **2025 (6) TMI 2027 Namasivaya Auto Cars v. The Deputy Sales Tax Officer-I, Korattur**) (by Mr. Justice Krishnan Ramasamy). Few other Judges of this Court have also adopted the same approach. The Division Bench of the Patna High Court in the decision reported in **2025 (6) TMI 251 (Binod Traders v. UOI)** held that uploading of show cause notice in the portal would not suffice. The Hon'ble Division Bench of the Delhi



<https://www.taxrealtime.in>

High Court in the decision reported in **2025 SCC OnLine Del 2707**

WEB COPY

(Raj International v. Commissioner (CGST)) held that the

department shall make an endeavour to ensure that in terms of Section 169 of the CGST Act, assesseees are served through the common GST Portal as also through their personal e-mail and mobile number, and that in addition, the notice may also be sent through speed post.

8. There is a cleavage of opinion among the Judges of the Madras High Court. But His Lordship Mr. Justice Mohammed Shaffiq declined to make a reference on the ground that the judgment of the Division Bench in **A. Sanjeevi Naidu v. The Deputy Commercial Tax Officer, Kanchipuram (1972 SCC OnLine Mad 347)** covered the issue. In the said Division Bench judgment, it was held that when the Rule provides various modes of service of notices, they are only alternative and not cumulative.

9. Section 169 of the Act no doubt prescribes various modes of service. In other words, the department has a choice. The right to choose any one of the modes of service is itself a power. It is well settled that whenever administrative power is conferred by a statute, the presumption



<https://www.taxrealtime.in>

is that it will be exercised in a manner which is fair in all the circumstances. The standards of fairness is not immutable

(1994) 1 AC 530 (R vs Secretary of State for the Home

Department). This proposition was approved in **NHAI vs Madhukar**

Kumar (2022) 14 SCC 661. In **Techno Prints vs. Chhattishgarh**

Textbook Corporation (2025 INSC 236), it was held that while the

authority may possess the power, it must be reasonably exercised.

The Hon'ble Supreme Court in **Southern Electricity Supply Co. of**

Orissa Ltd. v. Sri Seetaram Rice Mill, (2012) 2 SCC 108 evolved

the rule of practical interpretation. It must be understood that an

interpretation which upon application of the provisions at the ground

reality, would frustrate the very law should not be accepted against the

common sense view which will further such application.

10. Courts cannot ignore the fact that there is digital divide. I take judicial notice of the fact that when it comes to small businesses who constitute the overwhelming majority, the returns are usually filed by the consultants hired by the assesseees. The consultants take a nominal fee to render their services. In many cases, after the registration is cancelled, there is no occasion to even access the portal. The Hon'ble Allahabad High Court vide order dated 04.07.2025 made in



<https://www.taxrealtime.in>

WRIT TAX No. - 2786 of 2025 [(M/S Lalaram Thekedar vs

Union of India) held that once the registration has been cancelled, the petitioner is not obligated to check GST portal. When I was sitting on the Division Bench, a learned counsel appearing for the assessee whose registration has been cancelled, instead of submitting that the assessee did not have the occasion to access the portal, wrongly submitted that he could not access the portal. I had also erroneously endorsed the said submission as such [WA(MD)Nos.1934 & 1935 of 2025 dated 23.07.2025).

11.Let me come back to the issue on hand. When Section 169 (1) of the Act prescribes alternative modes of service and the said provision is still holding the field, it is not for me to declare that uploading in the portal is not service. But I can definitely hold that in the particular facts of a case, the authority was obliged to have resorted to the other modes of service apart from uploading the notice/order in the portal. In view of Rule 142, uploading in the portal is mandatory. But this alone might not be sufficient in certain circumstances. The writ court applying the ratio that power must be exercised reasonably can always conclude that the facts of that particular case required effecting service through one or the other modes also.



<https://www.taxrealtime.in>

12. What arises for determination in this case is not whether uploading of the order in the portal alone is sufficient?. The actual issue is reckoning the period of limitation. Section 107(1) of the Act is as follows :

“107. Appeals to Appellate Authority.— (1) Any person aggrieved by any decision or order passed under this Act or the Central Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.”

A careful reading of the aforesaid provision leads me to conclude that the limitation will start running from the date on which the order or decision is communicated to the assessee. The provision does not say that limitation should be calculated from the date of service of the order on the assessee. Section 169 talks about service. Of course, it talks about serving not only decision, order, summon or notice but also other communication. When a statute employs two different expressions, they denote different meanings. The expressions “served” and “communicated” are not synonymous. A literary person, to flaunt his richness of vocabulary, may use different words to mean one and the same thing. A lawmaker will desist from such endeavour. Article 22 of



<https://www.taxrealtime.in>

the Constitution of India also employs the expression "communicate". It

has been held in more than one decision that communication is a strong

word. In P.Ramanatha Aiyar's Advanced Law Lexicon, the term

"communicate" is defined to mean impart or transmit information. The

element of reaching out is implied in communication. Section 122 of the

Indian Evidence Act also employs this expression. It has been interpreted

to mean sharing of knowledge by one with another. Communication is

always a bipartite affair. Service will become communication if the

authority reaches out to the assessee. This can be done by giving or

tendering directly or by a messenger including a courier to the addressee

or sending by registered post or speed post. If the authority sends the

order to the last known address of the assessee, it would suffice. If the

assessee could not be found or he refuses to

accept service, the authority need not do anything more. The expression

"communication" should be understood in this sense. But mere uploading

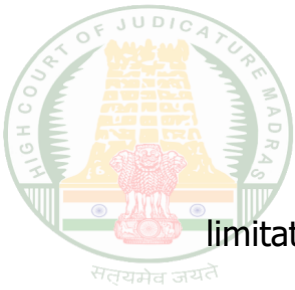
in the portal by no stretch of imagination would satisfy the requirement

of communicating to the assessee. The statute obliges the authority to

communicate to the assessee. There is no obligation cast on the assessee

to access the portal.

13.Since in this case, the impugned order had only been uploaded in the portal and not communicated to the assessee, the



<https://www.taxrealtime.in>

limitation has not started running for the writ petitioner. In the case on hand, the assessee appears to have recently downloaded the impugned orders from the portal for the purpose of filing this writ petition. But that would not constitute communication of the order to the writ petitioner. I, therefore, direct the second respondent to communicate the impugned order to the writ petitioner and it is open to the writ petitioner to file appeal in terms of Section 107 of the Act. Since the order has not been communicated as per law, it cannot be enforced till such communication.

14.The learned counsel appearing for the petitioner took pains to highlight the practical difficulties faced by the assessee. His written submission reads as follows :

“1.Under the current framework of the GST regime, show cause notices (SCNs), adjudication orders, appellate authority orders, personal hearing intimations and other communications are merely uploaded in the taxpayer’s dashboard on the GST common portal, which appear in ‘Notices or Orders’ or ‘Additional Notices or Orders’, without any separate mode of physical intimation through postal means.

2.Due to the above mode of communication,



<https://www.taxrealtime.in>

a. Taxpayers, particularly small and medium enterprises, often **remain unaware** of such uploads.

b. Many a time, **appeal deadlines are missed**, not due to wilful default but due to the **absence of knowledge** of such communications.

c. Consequently, it results in **litigation, multiplicity of writ petitions**, and **increased burden** on the Hon'ble Courts, and other stake holders in the GST.

3. Suggestion for a practical reform:

This Hon'ble Court may be pleased to direct or recommend that the **GST Network (GSTN), GST Council** or the respective governments to take immediate steps to re-engineer the GST portal with the following suggested features:

a. **Prominent Notification Window:**

Any SCN, adjudication order, cancellation order, or appellate order shall be displayed **prominently on the home page** after login, highlighted in bold or in red, clearly indicating urgency.

b. **Mandatory Acknowledgement via OTP:**

? The portal can be modified such that unless the taxpayer **enters an OTP sent to the registered email/mobile number to acknowledge viewing the communication**, access to other functionalities of the portal shall remain **blocked**.



WEB COPY



<https://www.taxrealtime.in>

The **date of OTP authentication** may be treated as the **date of service** under Section 169 for legal compliance and limitation purposes if the orders are being uploaded only in portal without being communicated in physical mode such as post.

c. Alternative service in cancelled registration cases:

Where GST registration is cancelled (either suo-motu or otherwise), there is no requirement for the registration cancelled taxpayer to access the GST portal on a regular basis as they are not doing the business and are not required to file the returns. In such cases the respective authorities should be directed to ensure that orders are also served through **physical post** to the residential address or the address given by the taxpayer to the authority at the time of filing of the cancellation application (as the business address may not be operative as the business itself is closed), in addition to portal upload, if not the means of other modes of communication envisaged under Section 169 of the CGST/TNGST Act, 2017 itself becomes otiose.

4.0 Precedent for Portal-based Functional Restriction:

It is respectfully submitted that the GST portal already incorporates **functional restrictions** to ensure taxpayer compliance. For instance:

? On conjoint reading of **Section 39(10)** of the CGST Act, 2017 and **Rule 59(6)** of the CGST Rules, 2017, provides that if a registered person **fails to furnish GSTR-3B for a tax period**, then the filing



WEB COPY



<https://www.taxrealtime.in>

of GSTR-1 for the subsequent month is blocked by the portal. In this regard, the GSTN has issued advisory on sequential filing of GSTR-1, dated: 21st October 2022. 4.1 The Petitioner humbly submits that **a similar systemic restriction** can be adopted for **critical legal communications**, such as Show Cause Notices, Adjudication Orders, Registration Cancellation Orders, etc. Specifically:

? The portal may be **technologically configured** such that **no further access** to return filing or other functionalities is granted **unless and until the taxpayer acknowledges the uploaded order or communication** by way of an **OTP-based authentication**.

? The **date on which OTP acknowledgment is submitted** may be deemed to be the **date of service** under **Section 169 of the CGST Act, 2017**, thereby bringing **clarity to limitation periods** for filing appeals or replies.

5. It is submitted that if the taxpayer has not complied with the E-KYC Norms, then on Login to the GST portal there pop ups a notification on the dashboard of GST portal reminding to fill the details for E-KYC. Similar to that a pop up can appear for notices and orders issued.

6. **The benefits of such an approach** are as follows:

Reduces litigation based on non-service or delayed knowledge of orders.

Brings **clarity and transparency** in procedural compliance.



<https://www.taxrealtime.in>

Ensures **accessibility and accountability**.

WEB COPY

Saves judicial time and aligns with the spirit of **ease of doing business**.

7. It is submitted that the when mode of service through portal is ineffective in practice for the above-mentioned reasons, and when the Hon'ble Madras High Court in WP Nos. 33562 of 2024 and etc, batch and in WP No. 1114 of 2025 have held that the mode of service through GST portal is a valid mode under Section 169 of the CGST Act, 2017, alternatively the GSTN should redesign the GST portal by providing easy visibility and accessibility of the notices or orders in the GST portal in order to uphold the principles of **natural justice** and ensure **access to remedy**.

8. **Recommendations:**

In light of the above, it is respectfully prayed that this Hon'ble High Court may kindly:

a. Recommend to the **GST Network (GSTN), GST Council and respective governments** to introduce the following measures in the portal architecture:

i. Mandatory **popup or dashboard alert** for all legal communications;

ii. **OTP-based acknowledgment**, the date of which will be treated as the effective **date of communication** when the communications are made only through the GST portal; iii.



WEB COPY



<https://www.taxrealtime.in>

Functional restriction until acknowledgment is submitted, similar to restrictions under Rule 59(6);

b. Further direct that in cases where the taxpayer's registration stands cancelled and there is no requirement for the registration cancelled taxpayer to access the GST portal on a regular basis as they are not doing the business and are not required to file the returns, the respective authorities should be directed to ensure that orders are also served through **physical post** to the residential address or the address given by the taxpayer to the authority at the time of filing of the cancellation application (as the business address may not be operative as the business itself is closed), in addition to portal upload, if not the means of other modes of communication envisaged under Section 169 of the CGST/TNGST Act, 2017 itself becomes otiose."

Section 107 deals only with appeal against decision/order. Since the written submissions pertain to a larger canvas, I have extracted the same verbatim. It is for those at the ultimate helm of affairs to take note of the suggestions made above.

15. These writ petitions are disposed of accordingly. No costs.

Connected miscellaneous petitions are closed.



<https://www.taxrealtime.in>

17.09.2025

WEB COPY

NCC : Yes / No

Index : Yes / No

Internet : Yes/ No

SKM

To:

1.The Deputy Commissioner (GST) (Appeals),
Camp Office at 1st Floor,
Commercial Taxes Building,
Palayamkottai, Tirunelveli – 627 002.

2.The State Tax Officer (Survey Unit),
O/o.The Joint Commissioner (ST) (INT),
Tirunelveli – 627 002.

G.R.SWAMINATHAN, J.

SKM

W.P.(MD)Nos.24684 & 24685 of 2025
and



<https://www.taxrealtime.in>

**WMP(MD)Nos.19379, 19381,
19393 & 19394 of 2025**



WEB COPY

17.09.2025