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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-11-2026

CORAM

Case QR

THE HON'BLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 45079 of 2026

CNR:{HCMA012541732026}

AND

WMP NO. 50578 OF 2026

Thomas Sowmya
W/o Gijesh
pathiparambil House,
Athipally Post, Gudulur
The Nilgiris

..Petitioner(s)

Vs

The State Tax Officer
The office of STO,
Gudalur Assessment Circle,
Devarsholai Road,
Gudalur.
The Nilgiris

..Respondent(s)

The Writ Petition is filed under Article 226 of the Constitution of India seeking the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned Final order dated 16.04.2024 for the Financial years 2018-2019 the rectification order dated 06.12.2024 both passed by the Respondent against GSTIN 33BLYPS7041D1ZR and quash the same consequentially direct the Respondent to withdraw his payment request letter dated 25.06.2026 issued to the petitioners Bankers.

For Petitioner(s): Mr.Thanga Vadhana Balakrishnan

For Respondent(s): Mr.R.Sethu Prabakaran, Government Advocate (Taxes)

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The present Writ Petition has been filed challenging the assessment order in Form GST DRC-07 dated 16.04.2024.

2. The learned counsel for the petitioner submits that the respondent initiated assessment proceedings alleging certain discrepancies. The petitioner has discontinued his business operations and, the petitioner's GST registration was cancelled with effect from 07.10.2021. The petitioner was under the bona fide impression that all proceedings concerning the GST registration had come to an end and that there were no further proceedings requiring its immediate attention, particularly regarding online communications. Under such circumstances, the impugned order came to be passed. The petitioner was not afforded an effective opportunity to place its explanation and supporting documents before the respondent prior to the passing of the impugned order. The proceedings were concluded without properly considering the petitioner's actual business transactions. He further contends that the mandatory requirement of an effective personal hearing under Section 75(4) of the CGST Act has not been complied with, and that the order has been passed in gross violation of the principles of natural justice.

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3. Further, the learned counsel for the petitioner submitted that the petitioner is willing to deposit 15% of the disputed tax amount with the respondent.

4. On the other hand, the learned Government Advocate (Taxes) appearing for the respondent submits that the respondent had uploaded the notices on the GST online portal, but the petitioner failed to avail of the said opportunity. However, he fairly admitted that no opportunity of a personal hearing was provided to the petitioner prior to the passing of the impugned order. Furthermore, since the notices were issued subsequent to the cancellation of the petitioner's GST registration, he requested this Court to remit the matter back to the respondent for fresh consideration, subject to the condition that the petitioner deposits 15% of the disputed tax amount.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) for the respondent, and also perused the materials available on record.

6. In the case on hand, it is evident that the show-cause notice was uploaded only under the specific tab of the GST portal. According to the petitioner, they were not aware of the issuance of the said show-cause notice via the portal, as it was issued subsequent to the cancellation of their GST registration, and the physical copy of the said notice was never served upon them. In such circumstances, this Court is of the view that the impugned

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assessment order came to be passed without affording an opportunity of a personal hearing to the petitioner, thereby confirming the proposals contained in the show-cause notice.

7. No doubt, sending notice by uploading in portal is a sufficient service, but, the Officer who is sending the repeated reminders, despite the fact that there is 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 amount to fulfilling the empty formalities. Merely passing an *ex parte* 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.

8. 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

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that there has been a lack of effort in applying the available opportunities to serve the notices/orders etc., effectively on the petitioner.

9. Further, it was submitted by the learned counsel for the petitioner that GST Registration was cancelled on 07.10.2021. When such being the case, all the communications should have been sent to the e-mail id provided by the petitioner. However, the respondent had failed to do so. Under these circumstances, the impugned order came to be passed by the respondent without providing any opportunity of personal hearing, which is a clear violation of principles of natural justice.

10. That apart, now, the petitioner is willing to pay 15% of the disputed tax amount to the respondent. In such view of the matter, this Court is inclined to set aside the impugned order dated 16.04.2024 passed by the respondent. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 16.04.2024 is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 15% of disputed tax amount to the respondent within a period of four weeks from the date of receipt of a copy of this order. The setting aside of the impugned order will take effect from the date of payment of the said amount.

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(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 payment of amount as stated above.

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

iv) Considering the fact that the impugned order itself have been set aside, this Court is of the opinion that the attachment made on the bank account of the petitioner cannot survive any longer and hence, it is to be lifted. As a sequel, the concerned Bank is directed to de-freeze the bank account of the petitioner, immediately upon the production of a copy of this order.

11. With the above directions, this writ petition is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

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

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KRISHNAN RAMASAMY J.

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