

Tvl.Dvs Carriers vs the Assistant Commissioner (St)(Fac)

Tvl.Dvs Carriers vs the Assistant Commissioner (St)(Fac)

SooperKanoon Citation : sooperkanoon.com/1896841

Court : Chennai

Decided On : Apr-22-2025

Judge : Honourable Mr Justice Krishnan Ramasamy

Appeal No. : WP/14033/2025

Appellant : Tvl.DVS Carriers

Respondent : The Assistant Commissioner (St)(Fac)

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.04.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY & W.M.P.Nos.15789 & 15791 of 2025 Tvl.DVS Carriers, Rep by its Proprietor, Mr.Santlal, No.52, 3rd Street, T.G. Samy Nagar, Madhavaram Redhills High Road, Vedaperumbakkam, Opp.RMB Aishwarya Apartment, Chennai 600 060 ... Petitioner Vs. The Assistant Commissioner (ST)(FAC), Madhavaram Assessment Circle, Room No.105, 1st Floor, Integrated Commercial Taxes Building, Wall Tax

Road, Chennai 600 003 ... Respondents Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the respondent in order dated 22.12.2023 in GSTIN33AJPPJ9905R1ZC/ 2017-18 (ARN No.AD330923062927P) and quash the same.

For Petitioner : Ms.R.Darshita, for Ms.C.Rekhakumari For Respondent : Ms.K.Vasanthamala, Government Advocate

ORDER

This writ petition has been filed challenging the impugned order

dated 22.12.2023 passed by the respondent.

2. Ms.K.Vasanthamala, learned Government Advocate, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in this

case, all notices/communications were uploaded by the 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 impugned order came to be passed by the respondent without providing

any opportunity of personal hearing to the petitioner. Hence, this petition has been filed.

4. Further, he would submit that the petitioner is willing to pay

25% of the disputed tax amount to the respondent. Hence, he requests this Court to grant an opportunity to the petitioner to present their case before the respondent by setting aside the impugned order.

5. On the other hand, the learned Government Advocate

appearing for the respondent would submit that the respondent had uploaded the notices in the GST Online Portal. But the petitioner failed to avail the said opportunity. Further, she has fairly admitted that no opportunity of personal hearing was provided to the petitioner prior to the passing of impugned order. Therefore, she requested this Court to remit the matter back to the respondent, subject to the payment of 25% of the disputed tax amount by the petitioner.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent 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 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 impugned assessment order came to be passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notice.

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

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 the petitioner is willing to pay 25% 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 22.12.2023 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 22.12.2023 is set

aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall pay 25% 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.

(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.

11. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed. 22.04.2025

Speaking/Non-speaking order

Index : Yes / No Neutral Citation : Yes / No nsa To The Assistant Commissioner (ST)(FAC), Madhavaram Assessment Circle, Room No.105, 1st Floor, Integrated Commercial Taxes Building, Wall Tax Road, Chennai 600 003 KRISHNAN RAMASAMY.J., nsa and W.M.P.Nos.15789 & 15791 of 2025 22.04.2025

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com