

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV SACHDEVA

&

HON'BLE SHRI JUSTICE VINAY SARAF

ON THE 24th OF APRIL, 2025

WRIT PETITION No. 11483 of 2025

SINGH CONSTRUCTION AND CO.

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

*Shri Mukesh Agrawal - Advocate with Shri Ayush Gupta, Advocate
for the petitioner.*

Shri R.D. Padhraha - Government Advocate for the respondents/State.
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ORDER

Per. Justice Sanjeev Sachdeva

Petitioner impugns three orders all dated 14.07.2023 for the tax period 2018-19, 2019-20 and 2021-22 whereby demand has been created against the petitioner. Petitioner also impugns three appeal orders all dated 02.12.2024, whereby the Appellate Authority has dismissed the appeals solely on the ground that the same have been filed beyond time. The orders have been passed under Section 73 and 107 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the Act).

2. Issue notice. Notice is accepted by learned counsel for respondents. With the consent of parties, the petition is taken up for final disposal.

3. Learned counsel for petitioner submits that the Petitioner was

unaware of the orders passed and could not prefer the appeal within time, initiation of any such proceedings and accordingly could not respond to the same. He submits that the said Show Cause Notice was uploaded on the portal in the category of, "Additional Notices" and was not communicated to the petitioner through any other mode of communication. He further submits that it was merely uploaded on the web portal under the tab of "Additional Notices and Orders", and accordingly, petitioner was unaware of any such proceedings initiated against it.

4. Reference may be had to the judgment of the High Court of Madras in W.P. No.26457/2023, titled *East Coast Constructions and Industries Ltd. v. Assistant Commissioner (ST) dated 11.09.2023/[2023]* 157 taxmann.com 66/(2023) 13 Centax 41 (Mad.), wherein the High Court of Madras has noticed that communications are placed under the heading of "View Notices and Orders" and "View Additional Notices and Orders". The Madras High Court had directed the respondents to address the issue arising out of posting of information under two separate headings. As per the petitioner, the Menu "View Additional Notices and Orders" were under the heading of "User Services" and not under the heading "View Notices and Orders".

5. This issue is further highlighted by another judgment of the Madras High Court dated 31.07.2023 in W.P. No.22369/2023 *Sabari Infra (P.) Ltd. v. Asstt. Commissioner (ST) [2023]* 154 taxmann.com 147/(2023) 10 Centax 92 (Mad.) connected petitions, wherein the Madras High Court has noticed as under :-

"3. The only ground on which the, the impugned orders are under

challenge is that the notices, which preceded the impugned orders were hosted in the Dashboard of the petitioner meant for 'Additional Notices and Orders ' whereas, the notices should have been hosted by the respondent in the Dash Board for,, View Notices and Orders'.

4. The learned counsel for the petitioner has drawn attention to the manual copy given by the respondent in the web portal, which reads as under:-

"How can I view or download the notices and demand orders issued by the GST tax authorities?

To view or download the notices and demand orders issues by the GST tax authorities, perform the following steps :

- 1. Access the www.gst.gov.in URL. The GST Home page is displayed.*
- 2. Login to the GST Portal with valid credentials.*
- 3. Click the Services User Services View Notices and Orders command.*

5. It is submitted that had the notice been uploaded in the correct place, the petitioner would have seen it and replied to the same and participated in the proceedings. Since the Notices and the Orders were hosted in the Dashboard of the petitioner meant for "Additional Notices and Orders", the petitioner failed to notice and file a reply to the Show Cause Notice.

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9. The problem has arisen on account of the complex architecture of the web portal. It has been designed to facilitate easy access of informations. It has however resulted in the petitioner failing to notice the notice that was issued to the petitioner prior to the impugned order on 20.03.2023. It went unnoticed by the petitioner, as a result of which, the impugned orders have been passed on 29.04.2023."

6. Attention is also drawn to yet another judgment of Madras High Court dated 08.02.2024 in Writ Petition No.2746/2024, titled ***Murugesan Jayalakshmi v. State Tax Officer*** [2024] 159 taxmann.com 545/103 GST133/2024 (84) G.S.T.L. 178 (Mad.)/(2024) 15 Centax 369 (Mad.),

wherein the Madras High Court has noticed that the said issue has been addressed and the portal has been redesigned and both the "View Notices" tab and "View Additional Notices" tab are under one heading.

7. Reference is also made to the Judgment of the Division Bench of the Delhi High Court in *Umang Realtech (P.) Ltd v. Union of India* [2024] 162 taxmann.com 817 (Delhi) and in *Anhad Impex and another Vs. Assistance Commissioner* [2024] SCC Online Delhi 1135, to which one of us (Sanjeev Sachdeva J.) was a party, wherein in similar circumstances, the Judgments of the Madras High Court have been relied upon to hold insufficiency of service of show cause notice and violation of principles of natural justice.

8. Clearly, petitioner has made out a case that Petitioner has missed out the receipt of the notice and accordingly could not respond to the Show Cause Notice because it was merely uploaded on the portal under the category of "Additional Notices" tab and accordingly could not respond to the Show Cause Notice. The impugned order categorically records that the tax payers was put to notice however, no reply by way of GST DRC-07. However, the tax payer neither deposited the tax amount nor filed any response the said notice and consequently, the demand has been created against the petitioner.

9. Perusal of the impugned order shows that the impugned order categorically records that the taxpayer has not replied or appeared in person. Consequently, we are of the view that petitioner needs to be granted one opportunity to respond to the Show Cause Notice and thereafter, the Show

Cause Notice to be re-adjudicated.

10. In view of the above, impugned orders dated 14.07.2023 and appeal orders dated 02.12.2024 are set aside. Respondents shall open the portal to enable the Petitioner to file a response to the said Show Cause Notices Form GST DRC-01 which shall be filed within a period of two weeks. Thereafter, the Proper Officer shall re-adjudicate the Show Cause Notices after giving an opportunity of personal hearing and shall pass fresh speaking orders in accordance with law within the period prescribed under Section 75 (3) of the Act.

11. It is clarified that this Court has neither considered nor commented upon the merits of the contentions of either party. All rights and contentions of parties are reserved.

12. Petition is disposed of in the above terms.

(SANJEEV SACHDEVA)
JUDGE

(VINAY SARAF)
JUDGE

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