

LAW WINDOW

An Initiative by: *Adv. Minakshi Jain*

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CASE No. 44 dated 03.01.2025

Particulars	Details
Name of Petitioner	SRT FUELS
Name of Respondent	The Deputy State Tax Officer, Salem
Case No.	W. P. No. 36617 of 2024 and W. M. P. Nos. 39496 & 39497 of 2024
High Court	Madras High Court
Date of Judgement	09.12.2024
Decision	Allow by Matter remanded back

Topic: Order Setting Aside Assessment Due to Lack of Proper Service and Granting Opportunity for Reassessment

Fact of the case:

The petitioner challenged the validity of an assessment order dated 27.04.2024, issued due to discrepancies in Input Tax Credit (ITC) claims between GSTR-2A and GSTR-3B, amounting to Rs. 10,22,809/- of IGST.

Petitioner's Submission:

Notices and orders were only uploaded on the GST portal under the "Additional Notices and Orders" tab, without proper service via Registered Post with Acknowledgment Due (RPAD).

Due to the lack of proper service, the petitioner was unaware of the proceedings and missed the opportunity to participate.

Respondent's Submission:

The respondent raised no significant objections to granting the petitioner an opportunity for adjudication, provided compliance with specified conditions.

Court's analysis and decision:

The court noted similar precedents, such as M/s. K. Balakrishnan, where cases were remanded on condition of partial payment. It recognized the petitioner's willingness to pay 25% of the disputed tax to facilitate a fair hearing.

The impugned assessment order was set aside. The petitioner must deposit 25% of the disputed tax within two weeks. Post deposit, the assessment order would be treated as a show cause notice, and the petitioner must file objections within four weeks, along with supporting evidence.

The respondent must adjudicate the case afresh, ensuring a fair hearing. Non-compliance with the above deadlines would lead to the automatic revival of the original assessment order.

Conclusion: This judgment emphasizes procedural fairness in GST adjudications, ensuring taxpayers are given adequate notice and opportunities to respond.

Regards,

Minakshi Jain, Advocate

Author and founder of Law Window

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