



Udumalpet Sarvodaya Sangham vs. The Authority & Ors

[Order dated 06.01.2025 in W.P.(MD).Nos.26481 of 2024 & batch matters]

The Hon'ble Madras High Court (Madurai Bench) examined multiple writ petitions challenging the validity of notices/orders issued under Section 169 of the Tamil Nadu Goods and Services Tax Act, 2017 (hereinafter referred to as "TNGST Act").

The petitioners, including Udumalpet Sarvodaya Sangham, challenged the validity of notices and orders issued by the GST authorities. The petitioners contended that the authorities uploaded these notices/orders only on the GST portal without adhering to other statutory modes of service prescribed under Section 169 of the TNGST Act, such as personal delivery, registered post, or email. Many petitioners argued that they were unaware of these notices due to reliance on tax practitioners for portal management, leading to a breach of natural justice. The Department contended that service through the portal constituted valid service, citing earlier judgments and arguing that Section 169(1)(a) to (f) should be read disjunctively, meaning compliance with any one mode would suffice.

The Hon'ble Court's ruling addressed two critical aspects:

(a) Interpretation of Section 169 of the TNGST Act

The Court held that Section 169 provides six alternative modes of service (including personal delivery, registered post, email, and portal uploads). However, the modes specified in Clauses (a) to (c) of Section 169(1) are alternative modes of primary service (in-person delivery, registered post, or email), which must be attempted first. Only upon failure or impracticability of these modes can the Department resort to Clauses (d) to (f) (portal publication, newspaper publication, or affixture).

(b) Rules Cannot Override Statutory Requirements

The Court rejected the Department's reliance on Rule 149 of the GST Rules (which only provides for electronic service), emphasizing that Rules cannot circumscribe the modes of service prescribed under the parent statute ie TNGST Act. When the Statute had also mandated issuance of notice in person/ registered post/ e-mail, etc., the Rules cannot be limited to only serving it through electronic modes.

(c) Adherence to Natural Justice

The Court clarified that the statutory provisions for notice service aim to ensure fairness and procedural compliance. The authorities' reliance solely on portal uploads without exploring alternative methods violated the principles of natural justice. Notices were required to be served effectively in compliance with statutory requirements.

The Hon'ble Court set aside the impugned assessment orders and directed the petitioners to file their replies to the show cause notices on or before 31.01.2025. The department was instructed to provide the petitioners with a hearing and issue fresh orders in compliance with the principles of natural justice and statutory requirements.

Pursuant to this judgment dated 06.01.2025, the Hon'ble Madras High Court further clarified on 10.01.2025 that non-compliance with multiple service modes under Section 169 results in procedural irregularity, thereby rendering the notices invalid. The court directed that in cases of procedural failure, the timeline for the petitioners to respond would be extended by 15 days from the date of proper service as per the prescribed modes. This supplementary order emphasizes stricter adherence to procedural safeguards, reinforcing that technological convenience cannot supersede statutory mandates.

W&B Comment on the Implications of the Judgment:

The Hon'ble Madurai Bench's decision underscores the critical importance of adhering to statutory procedures for serving notices under the Tamil Nadu Goods and Services Tax Act, 2017 (TNGST Act). The ruling strengthens procedural safeguards and emphasizes the duty of the State to follow statutory modes of service to uphold natural justice. The judgment has significant implications for various stakeholders. Taxpayers and businesses, especially those relying on tax practitioners, benefit from the clarity that notices must be served through all prescribed methods to ensure fair communication. Tax authorities are now obliged to integrate traditional modes of service, such as registered post and personal delivery, with electronic communications, thereby increasing administrative responsibilities and ensuring procedural compliance. Tax practitioners and legal advisors must remain vigilant in monitoring all statutory communication channels to keep their clients informed. The mode of communication for notices has been a concern for a long time. The instant issue parallels the issue of automated notices under GST, where a growing dependency on technology-driven communications has created compliance challenges for taxpayers. There are concerns about the proliferation of automated notices under GST, which have led to increased disputes and litigation. Such automated notices have significantly increased the compliance burden on taxpayers, leading to higher transaction costs and resource allocation for dispute resolution. Furthermore, the Delhi High Court has also recently emphasized that uploading information by the investigation wing of the Income Tax department would not be a substitute for recording a satisfaction note by the Assessing Officer for the purpose of initiation of proceedings under Section 153C of the IT Act affirming that statutory procedures cannot be overridden by convenience or technological reliance. Moving forward, policymakers could consider revisiting Section 169 of the TNGST Act to harmonize technological advancements with procedural fairness, possibly by establishing clear guidelines on the hierarchy of service methods.