

[Show Cause Notice Issued To The Driver Of Consignment Is Not Adequate: Madras High Court](#)

2022 LiveLaw (Mad) 460

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

S. SRIMATHY; J.

W.P.(MD)No.24778 of 2022 and W.M.P(MD)Nos .18861 & 18862 of 2022; 01.11.2022

**Ramki Cements Private Limited, Represented by its Director. The State Tax Officer,
Virudhunagar Roving Squad**

versus

Virudhunagar

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of ***Certiorarified Mandamus***, calling for the records on the file of the respondent pertaining to the impugned order of Demand of Tax and Penalty in Form GST MOV-09 dated 21.10.2022 and quash the same and consequently direct the respondent to release the goods of the petitioner.

For Petitioner : M/s.M.Sneha

For Respondent : Mr.M.Prakash, Additional Government Pleader

ORDER

This Writ Petition is filed for issuing Writ of ***Certiorarified Mandamus***, to quash the impugned order of Demand of Tax and Penalty in Form GST MOV-09, dated 21.10.2022 and consequently direct the respondent to release the goods of the petitioner.

2. By consent of both parties, this Writ Petition is taken up for disposal on the stage of admission itself.

3. The brief facts as stated in the affidavit is that the petitioner is an assessee on GST MOV-09 and he is having a Branch office at No.257, PathinParai, Thottakudi, Tirunelveli, Tamil Nadu 627 151. The petitioner has established this office recently. Thereafter, GST certificate was obtained for the said Unit.

4. The contention of the petitioner is that, mistakenly, in the consignment was mentioned as if it is transported to Chennai. After intercepting the consignment, the respondent has issued the impugned notice to the driver and the same was not received by the petitioner. Therefore, the petitioner claims that adequate opportunity was not granted to him.

5. The learned Additional Government Pleader appearing for the respondent submitted that notice was given to the driver of the consignment and that is sufficient under the GST Act. He further submitted that E-Mail notice was also issued on 21.10.2022.

6. The aforesaid plea was refuted by the petitioner and submitted that on the same day the impugned order, dated 21.10.2022 came to be passed and the plea of the respondent cannot be accepted.

7. Heard M/s.M.Sneha, learned counsel appearing for the petitioner and Mr.M.Prakash, learned Additional Government Pleader appearing for the respondent. Perused the material documents available on record.

8. After hearing the rival contentions, this Court is of the considered opinion that the petitioner was not given adequate opportunity. The petitioner has not received the show cause notice. The show cause notice was issued to the driver is not adequate. Therefore, the impugned order is liable to be set aside.

9. Accordingly, the Writ Petition is allowed and the impugned order of Demand of Tax and Penalty in Form GST MOV-09, dated 21.10.2022, is hereby quashed. The respondent is directed to issue a fresh notice, thereafter, the petitioner shall submit his objection. After considering the objection, the respondent shall pass speaking order, within a period of eight weeks, from the date of receipt of a copy of the order. No Costs. Consequently, connected miscellaneous petitions are closed.

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