



WEB COPY

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 14.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.Nos.3063 of 2009

M/s.Nice Health Care Co.,  
Rep by its Partner,  
No.16/46, Jawahar Hussain Street,  
Royapettah, Chennai - 14.

...Petitioner

Vs

The Assistant Commissioner (CT),  
Ice House Asst Circle,  
Greenways Road,  
Chennai - 28.

...Respondent

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 TNGST No.0742313/2005-2006 and quash the impugned proceedings dated 15.12.2008 in view of the proviso to section 22(1) of the Tamil Nadu General Sales Tax Act, 1959 as the purchase price and sale price of drugs by the petitioner is controlled by the Drugs (Prices Control) order 1995.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.V.Haribabu  
Additional Government Pleader

O R D E R

Among the various grounds raised by the petitioner herein, one of the grounds is that though the petitioner had raised a specific objection in the reply to the revision notice dated 21.08.2008 to the effect that, under the proviso to Section 22 (2) of the TNGST Act, it is not required that the collections by the second seller to be paid over to the state, for which purpose, the petitioner had relied upon decisions of the Madras High Court.

2. In spite of such a specific objection raised, the Assessing Officer has not adverted to the said objection. In my view, if the matter is remanded back to the Assessing Officer



for fresh consideration on this objection, as well as any other objections, which the petitioner has raised in his earlier objection dated 12.11.2008, the ends of justice would be secured.

3. In the light of the above observations, the impugned assessment order dated 15.12.2008, is set aside and the matter is remanded back to the respondent herein for fresh consideration of the objection dated 12.11.2008 raised by the petitioner to the revision notice issued on 21.08.2008, on its own merits and in accordance with law, as expeditiously as possible.

4. Accordingly, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

jas/hvk

To

The Assistant Commissioner (CT),  
Ice House Asst Circle,  
Greenways Road,  
Chennai - 28.

+1cc to the Spl Government Pleader(Taxes), S.R.No.69982  
+1cc to M/s.P.RajKumar, Advocate SR.69179(18/11/2019)

CNR(CO)  
CB(27/09/2019)

W.P.No.3063 of 2009