IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2023

CORAM :

The HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.5015 of 2023
and
WMP Nos.5047 and 5048 of 2023

M/s.Transasia Bio-Medicals Limited
Represented by its Authorised Signatory
Ashok Suthar ... Petitioner

vs

1. The Superintendent of GST & Central Tax
No.48/1, II Floor,
Aziz Nagar,
Reddiarpalayam,
Puducherry - 605 010.

2. The Joint Commissioner of GST & Central Excise,
No.1, Gouber Avenue,
Beach Road,
Puducherry - 605 001.

3. The Commercial Tax Officer - II,
Goods Division - II,
Commercial Tax Department,
100 Ft Road, Ellapillaicvady,
Puducherry - 605 005. ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to the impugned Order-in-Original No.09/2022(GST)(JC) dated 21.12.2022 issued by the 2nd respondent and quash the same.

For Petitioner : Mr.Hari Radhakrishnan

For Respondents : Mr.Rajnesh Pathiyal,
Senior Standing Counsel for R1 & R2
Mrs.Gdjearany,
Govt. Advocate (Pondy) for R3

ORDER

This writ petition has been filed challenging the impugned order in original dated 21.12.2022 passed by the second respondent on the ground of violation of principles of natural justice.

2. The following grounds have been raised by the petitioner for filing this writ petition :

a) The petitioner has challenged the constitutional validity of Section 140(3)(iv) of the Central Goods and Services Tax Act, 2017 in writ petition Nos.16642 to 16644 of 2018. Since the challenge to the aforementioned Section is pending, by total non application of mind to the said fact, the impugned order-in-original has been passed

b) inadvertently, the petitioner had submitted a declaration in its return on 30.06.2017 that there is Nil inventory but the respondents have not given due consideration to the said fact and has passed the impugned order-in-original. But by total non application of mind to the same, the respondent has passed the impugned order-in-original.

3. Admittedly, there is a statutory appellate remedy available to the petitioner as per Section 107 of the Goods and Services Tax Act as against the impugned order in original dated 21.12.2022. The principles of natural justice has not been violated by the respondents as seen from the impugned order in original dated 21.12.2022. The respondents may have committed an error in coming to the conclusion in the impugned order-in-original. The contentions raised by the petitioner in this writ petition will not amount to violation of principles of natural justice. Hence, the petitioner will have to necessarily approach the statutory appellate authority under Section 107 of the Goods and Services Tax Act, if aggrieved by the impugned order-in-original dated 21.12.2022.

4. Since the petitioner has approached this Court under Article 226 of the Constitution of India by filing this writ petition without

exercising the statutory appellate remedy available to them under Section 107 of the Goods and Services Tax Act, the present writ petition is not maintainable.

5. Accordingly, this writ petition is disposed of by directing the petitioner to approach the statutory appellate authority if aggrieved by the impugned order-in-original dated 21.12.2022 passed by the second respondent.

6. With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

23.02.2023

Index:Yes/No
Neutral Citation:Yes/No
vsi2

ABDUL QUDDHOSE, J.

vsi2

To
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