IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2023

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THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.Nos.25762, 25764, 25776, 25781, 10284 and 10288 of 2023
and
W.M.P.Nos.25188, 25189, 25191, 25193, 25208, 25210, 25213 and 25215 of 2023

W.P.No.25762 of 2023:-

Health and Happiness Private Limited,
Represented by its authorized signatory,
Rajiv Ohri, aged 61 years,
S/o.Madan Mohan Durgadas Ohri,
69, GNT Road, Kavangarai,
Puzhal, Chennai – 600 066. ... Petitioner

Vs

The Assistant Commissioner of State Tax,
Office of the Assistant Commissioner (ST),
Madhavaram Assessment Circle,
No.170, GNT Road,
Puzhal, Chennai – 600 066. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for records pertaining to Impugned Order No.CST :33216392668/2016-17, dated 13.07.2023 on the files of the respondent herein and quash the same.

For Petitioner : Mr.Harish Bindhu Madhavan

For Respondents : Ms.Amirtha Poonkudi Dinakaran
Government Advocate

COMMON ORDER

Ms.Amirtha Poonkodi Dinakaran, learned Government Advocate takes notice on behalf of the respondent.

2. After hearing the learned counsel for the petitioner and the learned Government Advocate for the respondent, these four writ petitions which listed today are disposed of along with W.P.Nos.10284 and 10288 of 2023.

3. The petitioner appears to be a online portal engaged in sale of goods through their its web portal called Flipkart.com

4. According to the petitioner, several concluded transactions there were sales return from the customers and therefore the petitioner was entitled to refund of the Sales Tax paid (TNVAT Act, 2006 for local

sales and CST for interstate sales). It is submitted that tax borne on sales return was to be refunded back.

5. Under these circumstances, the petitioner had approached this Court in W.P.Nos.10284 and 10288 of 2023 for a mandamus to direct the respondents to consider and dispose of the petitioner's refund claim arising on account of sales effected by the petitioner during the Assessment years 2016-2017 and 2017-2018 upto 30.06.2017.

6. Earlier on 03.04.2023, an interim order has been granted by this Court. Thereafter, the case was came up on 15.06.2023. On 15.06.2023, this Court had again recorded the submission of the learned counsel for the respondent who submitted that the process of assessment is on-going will be expedited, positively to be concluded before the next date of hearing. Meanwhile, the respondents issued pre-assessment notices all dated 25.05.2023 for the respective period under the respective GST enactments which has culminated in the impugned order.

7. The petitioner appears to have attempted to upload the details of documents to substantiate that there were indeed sales return which would entitle the petitioner refund of the tax paid by uploading the information along with their representation dated 02.07.2023. Thereafter, the case was also taken up for hearing on 12.07.2023, on which date the petitioner has reportedly given a document in a pendrive which is also mentioned in the preamble to the impugned order.

8. The respondent has however confirmed the demand proposed in the pre-assessment notice dated 25.05.2023. A reading of the impugned order indicates that pre-assessment notice dated 25.05.2023 has been confirmed without considering the document furnished by the petitioner in the pendrive. It merely states that the link provided by the petitioner uploading the information i.e, the document to substantiate the sales returns for reducing the sales tax liability under the respective Act are not accessible. The impugned order appears to have been passed in a hurry in an attempt to comply with the deadlined fixed by this Court in W.P.Nos.10284 and 10288 of 2023 vide its order dated 15.06.2023, which had recorded the submissions of the learned Government

Advocate for the respondents that the assessment is on-going and will be expedited positively by the next date of hearing. The case was came up on 17.07.2023 and thus the impugned orders have been passed on 13.07.2023.

9. Clearly the impugned orders have been passed in a hurry to adhere with the time line prescribed by this Court. However, such exercise has resulted in manifest violation of principles of natural justice. The impugned orders are therefore liable to be quashed and the cases are liable to remitted back to the respondent to pass a fresh order on merits after considering the documents furnished by the petitioner in the pendrive on 12.07.2023.

10. In view of the subsequent development and in view of the order passed in these W.P.Nos.25762, 25764, 25776 and 25781 of 2023 which are listed today for admission along with W.P.Nos.10284 and 10288 of 2023, the respondent shall pass fresh orders within a period of eight weeks from the date of receipt of a copy of this order. Needless to state, fresh order shall be passed after hearing the petitioner and after

scrutinising all the documents that have been furnished by the petitioner in the pendrive on 12.07.2023. In case, there is any difficulty in assessing the documents which has been given in the pendrive, the petitioner may be asked to furnish physical copy of the return invoices and the documents to substantiate the case.

11. These writ petitions stand disposed of with the above obsrevations. No costs. Consequently, connected writ miscellaneous petitions are closed.

01.09.2023

Index: Yes/ No
Internet : Yes/No
Speaking/Non-speaking Order
Neutral Citation : Yes/No
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To

The Assistant Commissioner of State Tax,
Office of the Assistant Commissioner (ST),
Madhavaram Assessment Circle,
No.170, GNT Road,
Puzhal, Chennai – 600 066.

C.SARAVANAN,J.

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