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W.P No.35228 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2023

CORAM:

THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

W.P No.35228 of 2023
and WMP No.35209 of 2023

M/s.Samadhu Medicals
Represented its Proprietor
Mr.S.Abdul Samadhu
No.2, Visvalingam Layout,
Villupuram – 605 602

...

Petitioner

vs.

The Deputy State Tax Officer /
The Deputy Commercial Tax Officer,
Villupuram – I Assessment Circle,
Villupuram.

...

Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of certiorari calling for the impugned proceedings of the respondent dated 12.04.2023 for the assessment year 2019-2020, the consequential order dated 12.04.2023 passed under Section 73 of the TNGST/CGST Act, 2017 issued in Reference No.ZD330423055736E and the summary of the order dated 12.04.2023 issued in Form GST DRC-07 in Reference No.ZD330423055736E and quash the impugned orders as passed contrary to the provisions of the CGST Act, 2017 and TNGST Act, 2017.



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For Petitioner : Mr.Rajkumar P.
For Respondent : Mrs.K.Vasanthamala,
Government Advocate (Tax)

ORDER

This Writ Petition has been filed for issuance of writ of certiorari to call for the impugned proceedings of the respondent dated 12.04.2023 for the assessment year 2019-2020, the consequential order dated 12.04.2023 passed under Section 73 of the TNGST/CGST Act, 2017 issued in Reference No.ZD330423055736E and the summary of the order dated 12.04.2023 issued in Form GST DRC-07 in Reference No.ZD330423055736E and quash the impugned orders as the same are passed contrary to the provisions of the CGST Act, 2017 and TNGST Act, 2017.

2. Mr.P.Rajkumar, the learned counsel for the petitioner submitted that the present impugned proceedings had been initiated due to the input mismatch between GSTR 3B return and GSTR 2A statement. The learned counsel contended that all communications pertaining to the impugned proceedings were intimated to the mobile number of one of the



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petitioner's staff Mr.T.Paneerselvam who expired on 30.04.2019. In so for as the communications sent via email is concerned, the same were sent to the mail ID provided by the petitioner, which belongs to one Mr.Sivakumar, viz., consultant of the petitioner, who has also expired on 05.02.2022 and hence, the petitioner was not aware of the initiation of impugned proceedings against him and only when the petitioner's bank account came to be attached, the petitioner came to know about the impugned proceedings, and immediately, the petitioner approached this Court seeking for quashing the impugned orders.

3. On the other hand, Mrs.K.Vasanthamala, learned Government Advocate (Tax) for the respondent would contend that before passing the impugned order on 12.04.2023, the communication with regard to initiation of the impugned proceedings were sent only to the number/mail address provided by the petitioner and subsequent to the death of the persons being engaged by the petitioner for filing their returns, the petitioner ought to have taken steps by engaging any other accountant and hence, the petitioner cannot plead ignorance of the impugned orders. However, the learned Government Advocate submitted that since the petitioner is aggrieved by the impugned orders, the only remedy available



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to the petitioner is go on appeal before the Appellate Authority.

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4. At this juncture, the learned counsel for the petitioner submitted that the petitioner would be satisfied if the Court grants liberty to the petitioner to agitate the issues before the Appellate Authority, by way of an appeal.

5. I have given due consideration to the submissions made by the learned counsel for the petitioner as well as the learned Government Advocate (Tax) appearing for the respondent.

6. The main grievance of the petitioner is that the person/consultant, viz., Mr. Paneerselvam and Mr.Sivakumar, who were engaged by the petitioner for filing the returns passed away on 30.04.2019 and 05.02.2022 respectively and hence the petitioner was not in a position to know about the impugned proceedings initiated against them and the consequential orders and hence, the petitioner was not able to file appropriate application and appear before the authorities concerned and put forth their case by way of reply. However, since the learned counsel for the petitioner submitted that the petitioner would be satisfied,



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if this Court grants liberty to the petitioner to agitate their case before the Appellate Authority by way of Appeal, this Writ Petition is disposed of granting liberty to the petitioner to approach the Appellate Authority by way of filing an appeal within a period of thirty days from the date of receipt of a copy of this order, in which case, the authorities concerned shall entertain the same without insisting upon limitation aspect, if any and dispose of the same, in accordance with law, after affording an opportunity to the petitioner. No costs. Consequently, connected Miscellaneous Petition is closed.

18.12.2023

Index: Yes/No
Speaking/Non-Speaking Order
Neutral Citation: Yes/No.
rgr

Note : Issue order copy by 21.12.2023.

To

The Deputy State Tax Officer /
The Deputy Commercial Tax Officer,
Villupuram – I Assessment Circle, Villupuram.

KRISHNAN RAMASAMY, J.

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