IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **23.02.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.4537 of 2024
and W.M.P.Nos.4923 & 4924 of 2024

M/s.Natural Remedies Pvt. Ltd.
Having its registered office at
Kakkadasam Village, Anniyalam Post,
Denkanikottai Taluk, Krishnagiri,
Tamil Nadu 635 107.
Represented by its Manager-Finance. ... Petitioner

-vs-

1.The Joint Commissioner of Stat Tax,
Office of the Joint Commissioner of State Tax,
Hosur Division, Hosur, 3/47, Sapthagiri Complex,
Thorappalli Agraharam Village,
(Adjacent to Ashok Leyland Unit - II)
Gandhi Nagar, Hosur - 635 109.

2.The Assistant Commissioner of State Tax (FAC),
Hosur South - III Assessment Circle, Commercial
Taxes Building, Ground Floor, Seetharam Nagar,
Bangalore Road, Near Old Bus Stand,
Hosur 635 109.

3.The Assistant Commissioner of State Tax (FAC),

Hosur South - I Assessment Circle, Commercial
Taxes Building, Ground Floor, Seetharam Nagar,
Bangalore Road, Near Old Bus Stand,
Hosur 635 109. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the second respondent in its impugned proceedings in Order-In-Original in From GST DRC-07 bearing reference no.ZD331223296344H dated 31.12.2023 issued for the period July 2017 to March 2018, under the provisions of CGST ACt, 2017 and quash the same and consequently direct the second respondent to pass DE NOVO order.

For Petitioner : Mr.Anil Bezawada
for M/s.HNA Law Chambers

For Respondents : Ms.Amirta Poonkodi Dinakaran, GA (T)

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ORDER

The petitioner assails an order in original dated 31.12.2023 primarily on the ground of breach of principles of natural justice. The petitioner is a company engaged in the manufacture of herbal veterinary and human healthcare products and is a registered person under applicable GST laws. Pursuant to an audit, it is stated that the petitioner was provided insufficient time to respond to the audit observations and that an audit report came to be issued on 29.09.2023. On the same date, it is stated that a show cause notice dated 29.09.2023 was issued. The petitioner submitted a detailed reply on 30.10.2023 by the physical mode on account of a technical glitch in the portal. The order impugned herein was issued thereafter on 31.12.2023.

2. Learned counsel for the petitioner invited my attention to show cause notice and the reply thereto. He pointed out that the petitioner had requested for a personal hearing by reply dated

30.10.2023. In spite of such request, he submits that the impugned order was issued without providing a personal hearing to the petitioner.

3. Ms.Amirta Poonkodi Dinakaran, learned Government Advocate, accepts notice for the respondents. She submits that the petitioner's reply to the show cause notice is not available in the files of the respondents. She admits, however, that no personal hearing was provided.

4. The reply dated 30.10.2023 of the petitioner is on record and the document contains an indication that the petitioner requested for a personal hearing. Even otherwise, the statute mandates that a personal hearing be provided either if requested for or if an order adverse to the taxpayer is proposed to be issued. Since such personal hearing was not provided and the reply was not taken into consideration, the order impugned herein calls for interference.

5. Therefore, the impugned order is quashed and the matter is remanded for re-consideration. The petitioner is permitted to re-submit the reply dated 30.10.2023 electronically on the portal of the respondents along with any additional documents. Such reply shall be re-submitted within a maximum period of ***ten days*** from the date of receipt of a copy of this order. Upon receipt thereof, the assessing officer is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh assessment order within a period of ***two months*** thereafter.

6. W.P.No.4537 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.4923 and 4924 of 2024 are closed.

23.02.2024

rna
Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

To

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SENTHILKUMAR RAMAMOORTHY,J

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