IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.15003 of 2024
and WMP Nos.16303 and 16305 of 2024

TVL. Hextar Pharmaceuticalss Private Limited,
Rep. by its Managing Director R.Anbazhagan
First Floor, 54, First Main Road,
Nanganallur, Chennai, Tamil Nadu 600 061
GSTIN: 33AABCH5775M1Z8 ..Petitioner

Vs.

The Assistant Commissioner (ST)
Nanganallur Assessment Circle,
Room No.224, 2nd Floor, Anna Salai,
Nandanam, Chennai 600 035. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorari, call for the records of the respondent herein in its impugned order vide Form GST DRC-07 in GSTIN:33AABCH5775M1Z8/2018-2019 dated 17.04.2024 and consequential order vide Form GST DRC-07 in Ref.No.:ZD330424128436K dated 17.04.2024 for the period 2018-2019 and quash the same.

For Petitioner : Ms.R.Hemalatha

For Respondent : Mr.C.Harsha Raj
Additional Government Pleader (T)

ORDER

An order in original dated 17.04.2024 is challenged in the Writ Petition on the ground of breach of principles of natural justice. By asserting that the petitioner was unaware of proceedings culminating in the impugned order because GST compliances were entrusted to an auditor, who failed to notice the show cause notice and order on the GST portal, the present Writ Petition was filed.

2. Learned counsel for the petitioner seeks another opportunity to contest the tax demand on merits. On instructions, she submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.C.Harsha Rai, learned Additional Government Pleader, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing a notice in Form ASMT 10 dated 05.01.2024, a show cause notice dated 05.01.2024 and a personal hearing notice dated 06.02.2024.

4. On examining the impugned order, it is clear that the tax proposal was confirmed because the tax payer did not file objections to the tax proposal. In view of the assertion that the tax payer could not participate in proceedings on account of being unaware of such proceedings, the interest of justice warrants that the petitioner be provided an opportunity by putting the petitioner on terms.

5. Therefore, the impugned order dated 17.04.2024 is set aside on condition that the petitioner remits 10% of the disputed tax demand within a period of 15 days from the date of receipt of a copy of this order. Within the said period, the petitioner is permitted to submit a reply to the show cause notice. Upon receipt of the petitioner's reply and upon being satisfied that

10% of the disputed tax demand was received, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within a period of three months from the date of receipt of the petitioner's reply.

6. The Writ Petition is disposed of on the above terms without any order as to costs. Consequently, the connected miscellaneous petitions are closed.

18.06.2024

jv

Index:Yes/No
Internet:Yes/No
Speaking order/Non Speaking order
Neutral Citation: Yes/No

To:-

The State Tax Officer (ST)
Thiruvallur Assessment Circle,
Nazarethpettai 600 123.

SENTHILKUMAR RAMAMOORTHY,
J.

jv

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