IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.07.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.16548 of 2024 and
W.M.P.Nos.18150 & 18152 of 2024

Tvl. Sri Nakoda Pharmaceuticals,
Rep. by its Proprietor Chandra Prakash,
No. 129/Shop No.1, Ground Floor,
Nyniappa Naicken Street, Park Town-600 003. ... Petitioner

-vs-

The Assistant Commissioner (ST)(FAC),
Park Town Assessment Circle,
Station No.32, Integrated Commercial Taxes
Office Complex,
Elephant Gate Bridge Road,
Chennai-600 003. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the Respondent order dated 18.12.2023 passed in reference No. 33AADPC7527R1ZG/2017-18 and to quash the same as it has been passed in violation of principles of natural justice.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr.V.Prashanth Kiran, Govt. Adv.(T)

ORDER

An order in original dated 18.12.2023 is assailed on the ground of breach of principles of natural justice. The petitioner asserts that the show cause notice and other communications were uploaded in the "View Additional Notices and Orders" tab on the GST portal and not communicated to the petitioner through any other mode. On account of being unaware of such proceedings, it is stated that the petitioner could not participate in such proceedings.

2. Learned counsel for the petitioner submits that the confirmed tax proposal relates to a mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. He further submits that the demand relating to taxes, interest and penalty was realised by appropriating the same from the petitioner's bank account. Therefore, he seeks another opportunity to contest the tax demand on merits.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that principles of natural justice were

complied with by issuing notice in Form ASMT 10 dated 23.08.2023, show cause notice dated 25.09.2023 and by offering a personal hearing on about two occasions.

4. On perusal of the impugned order, it is clear that the confirmed tax proposal relates to a mismatch between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. Such tax proposal was confirmed because the petitioner did not reply to the show cause notice. By taking into account the assertion that the petitioner could not participate on account of being unaware of proceedings, it is just and necessary to provide an opportunity to the petitioner. In this regard, it is pertinent to notice that the entire demand under the impugned order was realised by appropriating the amounts payable from the petitioner's bank account. Consequently, the revenue interest stands fully secured at this juncture.

5. For reasons set out above, the impugned order dated 18.12.2023 is set aside and the matter is remanded for reconsideration. The petitioner is

permitted to submit a reply to the show cause notice dated 25.09.2023 within 15 days from the date of receipt of a copy of this order. Upon receipt thereof, 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. For the avoidance of doubt, it is made clear that amounts appropriated from the petitioner's bank account shall abide by the outcome of the remanded proceedings.

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

08.07.2024

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

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SENTHILKUMAR RAMAMOORTHY,J

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To

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