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W.P.No.18079 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2024

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.18079 of 2024
and W.M.P.Nos.19877 & 19879 of 2024

M/s.Health Remedies

Represented by its Proprietor, Shri.Chirag Jagdish Dave

7 Sadasivam Street

Gopalapuram, Chennai 600 086.

... Petitioner

-vs-

The Assistant Commissioner of State Tax

Royapettah Assessment Circle

Room No.250, 2nd Floor

Integrated Building for Commercial Taxes and Registration Dept.

Nandanam, Chennai 600 035.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records relating to impugned order bearing GSTIN 33AGPPD6925Q1ZT / 2017-18 dated 20.12.2023 passed by the respondent and quash the



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same.

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For Petitioner : Mr.G.Natarajan

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

ORDER

An order in original dated 20.12.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner states that his GST registration was cancelled by order dated 25.09.2018 with effect from 31.08.2018. Since the show cause notice was uploaded on the common portal on 29.09.2023, which is about five years after the cancellation of the GST registration, it is stated that the petitioner did not monitor the portal and, consequently, could not participate in proceedings.



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2. Learned counsel for the petitioner referred to the electronic credit ledger of the petitioner and pointed out that it shows that a sum of Rs.5,09,847/- was available towards IGST and that if this had been taken into consideration there would be no mismatch between the petitioner's GSTR 3B returns and the auto populated GSTR 2A. He also submits that the credit was not utilized and has lapsed. On instructions, he submits that the petitioner agrees to remit 5% of the disputed tax demand as a condition for remand.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that the petitioner is under an obligation to continue to access and monitor the portal even after the GST registration was cancelled as regards proceedings initiated in respect of the period when he carried on business. He also submits that principles of natural justice were complied with.



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4. The petitioner has placed on record the order of cancellation of registration. Such order discloses that the cancellation was with effect from 31.08.2018. On examining the impugned order, it is evident that the tax proposal was confirmed because the tax payer did not appear for the personal hearing or respond to the show cause notice. The petitioner has also placed on record a copy of the electronic credit ledger. *Prima facie*, this document discloses that credit was available to the extent of Rs.5,09,847/- in the IGST column and Rs.30,377/- each in the CGST and SGST column. In these circumstances, albeit by putting the petitioner on terms, reconsideration is necessary.

5. Therefore, impugned order dated 20.12.2023 is set aside on condition that the petitioner remits 5% of the disputed tax demand as agreed to within a period of *fifteen days* from the date of receipt of a copy of this order. Within the said period, the petitioner is permitted



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to submit a reply to the show cause notice. Upon receipt of the petitioner's reply and on being satisfied that 5% 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 *three months* from the date of receipt of the petitioner's reply.

6. W.P.No.18079 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.19877 and 19879 of 2024 are closed.

01.08.2024

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No

To

The Assistant Commissioner of State Tax
Royapettah Assessment Circle
Room No.250, 2nd Floor
Integrated Building for Commercial Taxes and Registration Dept.
Nandanam, Chennai 600 035.

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SENTHILKUMAR RAMAMOORTHY,J

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