IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **16.07.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17288 of 2024 and
W.M.P.Nos.19079 & 19080 of 2024

M/s.Bio Pharma
Represented by its Proprietor Sri.S.Bharathi,
No.62, Thiruvalluvarpuram 2nd Street,
Choolaimedu, Chennai-600 094. ... Petitioner

-vs-

The State Tax Officer (FAC),
Vadapalani Assessment Circle,
No.1, Ground Floor,
PAPJM Annex Building,
Greams Road, Chennai- 600 006. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the respondent in his proceedings in GSTN.33AJPPB7408M1Z0/2017-18 and quash the proceedings dated 30.12.2023 passed therein.

For Petitioner : Mr.Raveendran B.

For Respondent : Mr.G.Nanmaran, SPL. G.P.

ORDER

An order in original dated 30.12.2023 is assailed on the ground of breach of principles of natural justice. The petitioner states that she deals in animal feed supplements, which are exempted goods under applicable GST enactments. Since the show cause notice and other communication were merely uploaded on the portal and not communicated to the petitioner through the registered e-mail I.D. or phone number, it is stated that the petitioner became aware of the impugned order only when the respondent made a phone call in relation to recovery.

2. Learned counsel for the petitioner points out that a reminder notice for a personal hearing was issued on 28.12.2023 and the impugned order was issued two days later. He also submits that the petitioner has all relevant documents in relation to procurement from Rannim Pharmaceuticals and that the petitioner would be in a position to establish that the supplies are exempted from GST. Without prejudice, on instructions, learned counsel for the petitioner submits that the petitioner agrees to remit 10% of the disputed

tax demand as a condition for remand.

3. Mr.G.Nanmaran, learned Special Government Pleader, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing a ASMT 10 notice dated 28.06.2023, show cause notice dated 27.09.2023 and by issuing two reminder notices for a personal hearing.

4. On examining the impugned order, it is evident that the tax proposal was confirmed largely on the ground that the tax payer had failed to respond to the show cause notice in relation to alleged violation of Schedule I of the applicable GST statutes. In the affidavit, the petitioner asserts that only exempted goods were dealt with and further states that all necessary documents to establish the aforesaid are available. In these circumstances, albeit by putting the petitioner on terms, reconsideration is necessary in the interest of justice.

5. Therefore, the impugned order dated 30.12.2023 is set aside on

condition that the petitioner remits 10% of the disputed tax demand as agreed to within a period of two weeks from the date of receipt of a copy of this order. The petitioner is permitted to submit a reply to the show cause notice within the aforesaid period. Upon receipt of the petitioner' 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, connected miscellaneous petitions are closed.

16.07.2024

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

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To

The State Tax Officer (FAC),
Vadapalani Assessment Circle,
No.1, Ground Floor,
PAPJM Annex Building,
Greams Road, Chennai- 600 006.

<u>SENTHILKUMAR RAMAMOORTHY,J</u>

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