IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **29.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17933 of 2024
and W.M.P.Nos.19669 & 19670 of 2024

M/s.Indira Child Care Pharmacy,
Represented by its Proprietrix
Mrs.C.Malaiarasi
B2, Amala Apartments,
4/37, Nattu Muthukumarap Street,
Mylapore, Chennai 600 004. ... Petitioner

-vs-

The Deputy State Tax Officer,
Mandaveli Assessment Circle,
Room No.419, Integrated Commercial Taxes Building,
Nandanam, Chennai 600 035. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, to call for the impugned proceedings of the respondent in GSTIN / 33CNTPM7420G1ZS /

2017-2018 dated 14.12.2023 and the order under Section 73 dated 14.12.2023 and the summary of the order in Form GST DRC-07 dated 14.12.2023 both issued in Reference No. ZD3312231000559 and quash the same as passed contrary to the provisions of the CGST Act, 2017 and TNGST Act, 2017 and IGST Act, 2017 and contrary to the principles of natural justice.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.C.Harsha Raj, AGP (T)

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ORDER

An order in original dated 14.12.2023 is assailed on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner asserts that she was unable to participate in proceedings culminating in the impugned order because all relevant communications were uploaded on the GST portal and not served on the petitioner either by e-mail or SMS.

2. Learned counsel for the petitioner submits that the confirmed tax proposal pertains to the mismatch between the petitioner's GSTR 3B returns and the auto populated GSTR 2A. He also submits that the petitioner has obtained and is in possession of requisite certificates from suppliers in conformity with Circular No.183. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing show cause notice dated 22.09.2023 and by offering a personal hearing.

4. The petitioner asserts that she could not participate in proceedings because of being unaware of the same. The petitioner

has placed on record a certificate dated 18.04.2024 from one of the suppliers concerned. Certificates from other suppliers have also been placed on record. In these circumstances, albeit by putting the petitioner on terms, it is just and necessary to provide an opportunity to the petitioner to contest the tax demand on merits.

5. For reasons aforesaid, impugned order dated 14.12.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand as agreed to within ***fifteen 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 on 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 ***three months*** from the date of receipt of the petitioner's reply.

6. W.P.No.17933 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.19669 and 19670 of 2024 are closed.

29.07.2024

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

To

The Deputy State Tax Officer,
Mandaveli Assessment Circle,
Room No.419, Integrated Commercial Taxes Building,
Nandanam, Chennai 600 035.

SENTHILKUMAR RAMAMOORTHY,J

rna

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