



WEB COPY



W.P.No.21440 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2024

CORAM

THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY

W.P.No.21440 of 2024

AND

W.M.P.No.23400 of 2024

M/s.Embace Pharma [OPC] Private Limited.,
Rep. by its Director Parvin Banu Hasan,
2/10, Sibi Residency, Gayathiri Nagar,
Uma Nagar Extension, Hasthampatty, Salem – 636 007. .. Petitioner

Vs

The State Tax Officer,
Hasthampatty Circle, Salem – 636 007. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records pertaining to Reference No.ZD330124166042Z dated 31.01.2024 passed by the respondent and set aside the same.

For Petitioner : Mr.Balaji Thirumoorthy

For respondent : Mrs.K.Vasanthamala,
Government Advocate [T]



WEB COPY



W.P.No.21440 of 2024

ORDER

Challenging the assessment order dated 31.01.2024 passed by the respondent in reference No.ZD330124166042Z this writ petition has been filed.

2. The learned counsel for the petitioner submits that the show cause notice was issued to the petitioner and without affording an opportunity of personal hearing, the impugned Order has been passed. Further, the said notice was uploaded in the GST portal in "Additional Notices and Orders". As the petitioner had no occasion to view "Additional Notices and Orders" portal, he was not able to defend his case. The impugned Order has been passed without affording an opportunity of personal hearing to the petitioner and the same is in violation of principles of natural justice. The learned counsel further submits that the petitioner is ready to deposit 10% of the disputed tax demand and requests this Court to set aside the impugned order.

3. *Per contra*, the learned Government Advocate appearing for the respondent submits that all the notices were uploaded in the GST portal and therefore, it is only the fault of the petitioner. However, she would fairly



W.P.No.21440 of 2024

submit that notice was uploaded in the 'Additional Notices column'. Therefore, she would submit that in the event, this Court is inclined to set aside the impugned Order, the same may be remitted for reconsideration in accordance with law.

4. I have given due consideration to the arguments made by the the learned counsel for the petitioner and the learned Government Advocate appearing for the respondent and perused the materials available on record.

5. There is no dispute on the aspect that the notice was uploaded in 'Additional Notices column' and without providing any opportunity of personal hearing to the petitioner, the impugned Order has been passed. Therefore, as contended by the learned counsel for the petitioner, this Court is of the considered view that the petitioner had no occasion to view the 'Additional Notices column' to view the show cause notice uploaded in the portal. Hence, the impugned Order has been passed without affording any opportunity of personal hearing to the petitioner, which is clearly in violation of principles of natural justice and the same has to be set aside.



W.P.No.21440 of 2024

6. Hence, the impugned order dated 31.01.2024 passed by the respondent is set aside and this Court passes the following Order :

- i. That the petitioner shall deposit 10% of the disputed tax demand, within a period of four (4) weeks from the date of receipt of a copy of this order.
- ii. Thereafter, the petitioner is directed to file his reply with two weeks.
- iii. thereafter respondent shall pass orders on merits and in accordance with law by giving due consideration to the reply already filed by the petitioner and after affording an opportunity of personal hearing to the petitioner, within a period of four (4) weeks.

7. With the above directions, this writ petition is disposed of. No costs.

Connected W.M.P. is closed.

21.08.2024

vrc

Index : Yes/No

Neutral Citation : Yes/No

To

The State Tax Officer,
Hasthampatty Circle, Salem – 636 007.



WEB COPY



W.P.No.21440 of 2024

KRISHNAN RAMASAMY, J.

VTC

W.P.No.21440 of 2024

21.08.2024