IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.09.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.25441 of 2024 &
W.M.P.Nos.27809 & 27810 of 2024

Sadhana Medicals,
Represented by its Partner,
Payanur Viswanatha Iyer Gopalakrishnan,
No.2, 19th Avenue, 86th Street,
Ashok Nagar, Chennai 600 083. ...Petitioner

Vs.

State Tax Officer,
Kodambakkam Assessment Circle,
No.1, Greams Road, Chennai 600 006. ... Respondent

Prayer : This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the impugned proceedings of the respondent passed GSTIN:33ABHPS3662G1ZL dated 13.04.2024.

For Petitioner : Mr.S.Ramamurthi
for Mr.N.Murali
For Respondent : Mrs.K.Vasanthamala
Government Advocate (Tax)

ORDER

This Writ Petition has been filed by the petitioner challenging the impugned order dated 13.04.2024 passed by the respondent for the assessment year 2018-2019.

2. Mrs.K.Vasanthamala, learned Government Advocate (Taxes), takes notice on behalf of the respondent.

3. By consent of the parties, the main Writ Petition is taken up for disposal at the time of admission stage itself.

4. The learned counsel for the petitioner submitted that the Show Cause Notice raised on the petitioner in the GST common portal. Since the petitioner's GST registration was cancelled on 04.06.2021, the petitioner had no occasion to gone through the GST Portal. Hence, the petitioner failed to reply the said Show Cause Notice. Therefore, the impugned order came to be passed by the respondent in violation of principles of natural justice. Further, he submitted that even an impugned order was uploaded in the GST portal and the physical version of such order was not served on the petitioner. Hence, he sought for appropriate orders from this Court for affording an opportunity to the petitioner to present the case by way of filing a suitable reply and participate in the proceedings. It is also submitted that, if one more opportunity is provided, the petitioner would be able to substantiate his case and also the petitioner also agrees to make a payment of 10% of the disputed tax in respect of the impugned

assessment period.

5. Mrs.K.Vasanthamala, learned Government Advocate (Taxes) appearing for the respondent would submit that subject to the deposit of 10% of the disputed tax by the petitioner in respect of the impugned assessment period, this Court can remand the matter to the Authority concerned for passing appropriate orders.

6. Heard the learned counsel for the petitioner as well as the learned Government Advocate (Taxes) for the respondent and perused the materials available on record.

7. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notice was uploaded on the GST Portal Tab. According to the petitioner, the petitioner was not aware of the issuance of the show cause notice issued through the GST Portal and the original of the said show cause notice was not furnished to them. In such circumstances, this Court is of the view that the impugned order came to be passed without affording an opportunity of

personal hearing to the petitioner to establish its case, thereby violating the principles of natural justice and that it is just and necessary to provide an opportunity to the petitioner to establish their case on merits and in accordance with law.

8. For the reasons stated above, this Court is inclined to set aside the impugned order dated 13.04.2024 passed by the respondent with the following directions:-

> (i) The order impugned herein is set aside and the matter is remanded to the respondent for fresh consideration on condition that the petitioner shall deposit 10% of the disputed tax in respect of the impugned period to the respondent within a period of four weeks from the date of receipt of a copy of this order; and the setting aside of the impugned orders shall take effect from the date of payment of the said amount.
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> (ii) The petitioner shall file their reply/objection along with the required documents, within a period of two weeks thereafter.
>
> (iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and pass appropriate orders on merits and in accordance with law, after providing an opportunity of personal hearing to the petitioner, as expeditiously as possible.

9. With the above directions, this Writ Petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

04.09.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
jd

To
State Tax Officer,
Kodambakkam Assessment Circle,
No.1, Greams Road, Chennai 600 006.

Krishnan Ramasamy,J.,

jd

W.P.No.25441 of 2024

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