IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2024

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.27545 of 2024
and W.M.P.No.30069 & 30070 of 2024

Tvl. Medi Rasayan (P) Ltd.,
represented by its Director Rishi Bhandari,
Old No.116, New No.35,
Rasappa Chetty Street,
1st Floor park Town,
Chennai 600 003 ... Petitioner

Vs.

The State Tax Officer (ST),
Moore Market Assessment Circle,
Integrated Commercial Taxes
Office Building, Chennai North
Division, No.32, Elephant Gate
Bridge Road, Chennai 600 003. ... Respondent

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari to call for the records of the respondent's order dated 20.04.2024 in GSTIN: 33AAACM6477C1ZO/ 2018-19 and to quash the same as it has been passed in violation of principles of natural justice.

For Petitioner : Mrs. Janani

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

ORDER

The present Writ Petition is filed for the issuance of a Writ of Certiorari to call for the records of the respondent's order dated 20.04.2024 in GSTIN: 33AAACM6477C1ZO/ 2018-19 and to quash the same as it has been passed in violation of principles of natural justice.

2. The learned counsel for the petitioner submits that the respondent has not communicated the show cause notice in Form GST DRC 01 dated 27.12.2023 and the notice providing opportunity of personal hearing on 29.01.2024. The respondent has not served the order either physically or through post. All the notices were uploaded in the portal under the "Additional Notices/Orders". The impugned order is nothing but non-speaking order and therefore, the same is liable to be quashed.

3. The learned counsel for the petitioner further submits that the petitioner was issued with show cause notice in Form GST DRC 01, dated 27.12.2023, wherein, it was alleged that an excess claim of ITC was made and ineligible Input tax credit was availed by the petitioner. Thereafter reminder notice and personal hearing notice was also issued in the portal. Subsequently, upholding the allegations of show cause notice, the impugned order came to be passed on 20.04.2024 demanding tax and penalty thereof.

In the impugned order, it was stated that the petitioner has neither responded to the show cause notice issued, nor appeared for personal hearing offered on 29.01.2024, hence, in the absence of reply with supporting documents, the allegations raised in the show cause notice DRC 01 was confirmed and in view of the above, tax due, interest and penalty was determined. Generally, the respondent used to issue notices under the 'notices column'. After issuance of notices, if at all, there is anything regarding additional information, the same will be uploaded in the 'view Additional notices and order' column. In the present case, since the show cause notice and assessment order was uploaded in the "”view additional notices and orders” column, the petitioner has no occasion to view the show cause notice and the impugned order, therbey, he is not able to file reply to the show cause notice and by the time, appeal remedy was also exhausted.

4. He also submits that as the entire communications were uploaded in web portal, the petitioner was not aware of the same and without affording an opportunity of personal hearing, the respondent proceeded to pass the impugned order, which is violation of principles of natural justice. Hence, the impugned order may be set aside and the matter may be remanded back to the the respondent for fresh consideration.

5. The learned Government Advocate (Taxes) appearing for the respondent would submit that the notices and orders were issued through the GST Portal and hence, the Petitioner cannot complain of the breach of principles of natural justice. However, he would fairly submit that if any order is passed by this Court, the same will be complied with by the respondents.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (T) appearing for the respondent and perused the materials placed before this Court.

7. Considering the fact that all the notices were uploaded in the web portal and therefore, the petitioner had no occasion to view the said column and the impugned order was passed without affording an opportunity to the petitioner to establish his case before the authorities concerned, which is clear violation of principles of natural justice, this Court is of the view that no order can be passed without providing sufficient opportunities to the petitioner. Hence, the impugned order is liable to be set aside.

8. Accordingly, the impugned order passed by the respondent dated 20.04.2024 is set aside on condition 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. While setting aside the impugned order, this Court is inclined to remand the matter to the respondent for fresh consideration and accordingly, the matter is remitted back to the respondent. The petitioner is directed to file their reply within a period of two (2) weeks and on receipt of the reply filed by the petitioner, the respondent shall fix a date for personal hearing by sending a physical notice to the petitioner providing 14 days time and thereafter, pass orders on merits and in accordance with law.

9. With the above directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

23.09.2024

msr
Index:Yes/No
Internet:Yes/No
To

The State Tax Officer (ST),
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Integrated Commercial Taxes
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KRISHNAN RAMASAMY, J.

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