IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

WP.Nos.28636 and 28638 of 2024
and W.M.P.Nos. 31323, 31324, 31235 and 31237 of 2024

Tvl.Shankara Medicines Private Limited
(Represented by its Managing Director,
Maruthai)
No.61, Dr.Moorthy Nagar Main Road,
Padi, Chennai, Tamil Nadu – 600 050 ... Petitioner in both W.Ps

Vs.

1.The State Tax Officer,
(also known as Commercial Tax Officer)
Padi Assessment Circle.

2.The Assistant Commissioner (ST) (FAC),
Padi Assessment Circle. ... Respondents in both W.Ps

Prayer in W.P.No.28686 of 2024:- Writ Petition is filed, under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records on the file of the 1st respondent in FORM GST DRC-07 with Ref.No.ZD3311231561860 dated 24.11.2023 along with detailed order in GSTIN:33AAACV3728K1ZA/2018-19 dated 24.11.2023 for the tax period APR 2018-MAR 2019 and quash the same.

Prayer in W.P.No.28638 of 2024:- Writ Petition is filed, under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records on the file of the 1st respondent in FORM GST DRC-07 with Ref.No.ZD331123198771D dated 30.11.2023 along with detailed order in GSTIN:33AAACV3728K1Za/2018-19 dated 30.11.2023 for the tax period APR 2018-MAR 2019 and quash the same.

For Petitioner in both W.Ps : Mr.N.Chandrasekar

For Respondents in both W.Ps : Mr.G.Nanmaran
Special Government Pleader (Tax)

***

COMMON ORDER

These writ petitions have been filed challenging the impugned order s dated 24.11.2023 and 30.11.2023 passed by the 1st respondent.

2. By consent of the parties, the main writ petitions are taken up for disposal at the admission stage itself.

3. Mr.G.Nanmaran, learned Special Government Pleader(T) takes notice on behalf of the respondents.

4. The learned counsel for the petitioner submits that the impugned order dated 24.11.2023 and 30.11.2023 were uploaded in the portal and that too in "additional notices and orders" tab of the GST portal and the petitioner was not able to defend the case. Even the personal hearing notice and all the communications were also issued in the same portal, the petitioner has not appeared for the same. Hence, the petitioner has not filed

a reply. Therefore, the order passed by the respondent is in violation of principles of natural justice. He further submitted that the petitioner had already deposited a sum of Rs.4,32,078/- out of the total tax liability of Rs.7,78,276/- and hence, the order passed by the respondent may be set aside and remanded the matter back to the respondent for reconsideration.

5. The learned Special Government Pleader (T) appearing for the Respondents would submit that though the notice was uploaded by the respondent in the web portal, the petitioner had failed to appear before the respondent for personal hearing. However, he would fairly submit that if any order is passed by this Court, the same will be complied with by the respondent.

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

7. In the present case, the petitioner had already deposited 40% of the disputed tax liability. Moreover, it appears that the notices have been uploaded in the portal under the "view additional notices and orders" column and the same were not at all physically served to the petitioner, due to which, the petitioner was unaware about the said notice. Hence, the

reasons provided by the petitioner for being unaware of the notice, which was uploaded in the web portal, are appears to be genuine.

8. Further, this Court is of the view that no order can be passed without providing sufficient opportunities to the petitioner. However, in the present case, no reply was filed by the petitioner and no opportunity of personal hearing was provided to the petitioner. Hence, the impugned order is liable to be set aside.

9. Accordingly, the impugned orders dated 24.11.2023 and 30.11.2023 are set aside and remanded the matter back to the respondent for fresh consideration. The petitioner is directed to file a reply within a period of two (2) weeks from the date of receipt of a copy of this order. After receipt of the reply, the authorities concerned shall fix a date for personal hearing by sending a physical notice to the petitioner and thereafter, pass orders on merits and in accordance with law.

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

27.09.2024

Index:Yes/No
Internet:Yes/No

Speaking order/Non-Speaking order
msv

To
1.The State Tax Officer,
(also known as Commercial Tax Officer)
Padi Assessment Circle.

2.The Assistant Commissioner (ST) (FAC),
Padi Assessment Circle.

KRISHNAN RAMASAMY, J.

msv

WP.No.28636 and 28638 of 2024
and W.M.P.Nos.31323, 31324,
31235 and 31237 of 2024

27.09.2024