IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.09.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.28862 of 2024 &

W.M.P.Nos.31478 & 31479 of 2024

M/s.TechBio Solutions,
Rep. by its Mg. Partner Vishnu Raja
A-1, Deju Plaza, No.2, South Avenue,
Srinagar Colony, Saidapet, Chennai – 600 015. ... Petitioner

Vs.

The Assistant Commissioner [ST],
Saidapt Assessment Circle,
No.1, PAPJM Building Annexe,
Fifth Floor, Greams Road, Chennai – 600 006. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari by calling for the records of the respondent in his proceedings in GSTIN:33AAJFT6991NIZC/ 2018-19 dated 25.04.2024 and quash the same as illegal.

For Petitioner : Mr.S.Ramanathan

For Respondent : Mr.G.Nanmaran

Special Government Pleader [T]

ORDER

Challenging the impugned Order of the respondent in GSTIN: 33AAJFT6991NIZC/ 2018-19 dated 25.04.2024 and quash the same as illegal, the present writ petition has been filed.

2. According to the petitioner, he is a dealer in medical equipments. The petitioner is a registered dealer under the GST Act. The respondent issued a notice in Form GST DRC – 01 dated 24.11.2023 stating that there is mismatch between GSTR 3B and GSTR 2A and the respondent has levied a tax of Rs.12,56,782/- under IGST and an interest of Rs.10,38,136/- and penalty of Rs.1,25,678/-. As the petitioner has no knowledge and access to the portal, he could not file his reply to the show cause notice. The respondent has confirmed the proposal by stating that to the Show Cause notice the petitioner has not filed any reply and levied tax as per the proceedings dated 25.04.2024. The impugned Order passed by the respondent is arbitrary and illegal. The respondent has failed to consider that the supplier has correctly

reported the turnover in the return during 2018-19. During 2018-19 GSTR 2A was not auto populated and it was not available in the common portal. Now the petitioner has got the GSTR 2A and an IGST ITC of Rs.16,24,716/- has been correctly reflected which is over and above the ITC of Rs.15,14,640/- claimed by the petitioner. Hence, the present writ petition.

3. Heard both sides and perused the documents enclosed in the typed set of papers. By consent of the parties, the main Writ Petition is taken up for disposal at the time of admission stage itself.

4. Though the petitioner raised very many grounds assailing the order impugned herein, the main contention of the learned counsel for the petitioner is that before passing the order impugned herein, the petitioner was not provided reasonable opportunity to submit their oral and written submissions and to file documents to substantiate their claim. Thus, according to the learned counsel, the order impugned herein is arbitrary, illegal and in violation of the principles of natural justice. The learned

counsel further submitted that the petitioner was not provided an opportunity of personal hearing to substantiate their case and seeks to set aside the impugned Order. He further submits that the petitioner is ready to deposit 10% of the disputed tax demand.

5. On the other hand, the learned Special Government Pleader appearing for the respondents submitted that after analysing the facts and circumstances of the case, the respondent has passed the order impugned. However, he fairly submits that if any order is passed by this Court, the same will be complied by the respondent.

6. Considering the facts and circumstances of the case coupled with the submissions made by the learned counsel on either side would demonstrate that there is clear violation of principles of natural justice on the part of the respondent in passing the order impugned herein, this court passes the following order:

> [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 pay

a 10% of the disputed tax liability to the respondent within a period of four weeks from the date of receipt of a copy of this order;

[ii] The petitioner shall file their reply/objection along with the required documents, if any, 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.

7. This writ petition is disposed of on the above terms. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

30.09.2024

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

vrc

To

The Assistant Commissioner [ST],
Saidapt Assessment Circle,
No.1, PAPJM Building Annexe,
Fifth Floor, Greams Road, Chennai – 600 006.

KRISHNAN RAMASAMY, J.

vrc

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