IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.02.2025

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THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.3753 of 2025
and W.M.P.Nos.4160 & 4162 of 2025

M/s.Zeez Pharmaceuticals Private Limited,
Rep. by its Authorized representatives / Director,
S.Vishwanathan,
C-3, 1st Floor, Mangadu Apartment,
No.29, Ellai Amman Koil Street,
West Mambalam, Chennai – 600 033. .. Petitioner

Vs.

Assistant Commissioner (STO),
Ashok Nagar, Central -1,
Chennai. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue Writ of Certiorari, calling for the records in impugned proceeding in Reference No.ZD330824105469A dated 13.08.2024 on the file of the respondent herein and quash the same.

For Petitioner : Mr.B.Manoharan

For Respondent : Mr.U.Baranidharan
Additional Government Pleader (Taxes)

ORDER

This writ petition has been filed by the petitioner seeking to call for the records in impugned proceeding in Reference No.ZD330824105469A dated 13.08.2024, on the file of the respondent herein and quash the same.

2.Mr.U.Baranidharan, learned Additional Government Pleader (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 admission stage itself.

4.Learned counsel appearing for the petitioner would submit that the petitioner is doing pharmaceutical business for more than one and a half decades and paying all the taxes and statutory charges to the authorities concerned without any default. Subsequent to the implementation of GST, the petitioner registered themselves to the GST Authority on 26.06.2017. While so, for the financial year 2019-2022, the respondent issued show cause notice in DRC-01 dated 20.05.2024, claiming tax due on various heads. In response, the petitioner company made a request vide letter dated 19.06.2024, seeking time for submitting their reply. However, the respondent without any further notice or providing any personal hearing, passed the impugned order on 13.08.2024, directing the petitioner to pay the tax due of Rs.30,77,887 along with interest of Rs.25,19,745/- and penalty of Rs.3,27,788/-, in total Rs.58,44,704/-.

5.He would further submit that the impugned order dated 13.08.2024 was also not served to the petitioner, it was only uploaded on the portal, which is violation of principle of natural justice. If the petitioner is provided with an opportunity, they will establish before the respondent that they have made the tax due properly without fail and hence, prayed to quash the impugned proceeding.

6.Per contra, Mr.U.Baranidharan, learned Additional Government Pleader (Taxes), appearing for the respondent would submit that in the present case, DRC-01 was issued on 20.05.2024 and the same was received by the petitioner. Thereafter, the petitioner through letter dated 19.06.2024 sought time for furnish their reply. The time was granted and the impugned order was passed on 13.08.2024, therefore, there is no failure on the part of the respondent and there is no violation of principles of natural justice.

7.Heard the learned counsel for the petitioner as well as Mr.U.Baranidharan, learned Additional Government Pleader (Taxes), appearing for the respondent and perused the materials available on record.'

8.A perusal of the impugned order would show that DRC -01 was issued to the petitioner on 20.05.2024 and thereafter, on 19.06.2024, a letter was sent by the petitioner to the respondent asking 30 days time for filing their reply. Thereafter, the impugned order came to be passed on 13.08.2024. According to the petitioner, they were under the impression that the respondent will send a notice or letter to the petitioner granting 30 days time for filing their reply. In the present case, since no reply has been filed by the petitioner, the respondent passed the impugned order dated 13.08.2024, after the period of 30 days from the request letter made by the petitioner. In the absence of any reply from the petitioner, the respondent passed the impugned order.

9.However, since it is an *ex parte* order which is not sustainable, now the petitioner has two opportunities i.e 1) before the Assessing Officer and 2) before the Appellate Authority. The petitioner due to non-filing of the reply, on its own act has invited the *ex parte* impugned order. Therefore, this Court does not find any infirmity in the order passed by the respondent and there is no violation of principles of natural justice. Even for filing appeal before the Appellate Authority, the time has been expired. For filing the appeal, the writ petitioner supposed to pay 10% of statutory pre-deposit. Since the time has been expired and delay has been occurred, this Court is inclined to direct the petitioner to pay 5% in addition to the 10% pre-deposit for condonation of delay. Accordingly, this Court passes the following order:-

(i) The petitioner is granted liberty to file appeal before the Appellate Authority within a period of 15 days from the date of receipt of a copy of this order subject to deposits of 10% statutory deposit plus 5% in addition to that, totally 15% of the disputed tax amount in respect of the impugned assessment before filing the appeal.

(ii)The petitioner shall also file their reply/objection along with the required documents, before the Appellate Authority.

(iii) On filing of such appeal by the petitioner, the Appellate Authority shall take the appeal on record without insisting upon the limitation aspect and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

10.With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

06.02.2025

rst

Index : Yes/No
Internet: Yes/No
Speaking/Non-Speaking Order

To:

Assistant Commissioner (STO),
Ashok Nagar, Central -1,
Chennai.

KRISHNAN RAMASAMY, J.

rst

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