IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :04.04.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.11885 of 2025
and
W.M.P.Nos.13454 & 13455 of 2025

TVL.MS PHARMACUETICALS
2A, 3RD FLOOR METTUKUPPAM ROAD
MADURAVOYAL, CHENNAI TAMIL NADU
CHENNAI 600095. ...Petitioner

Vs.

ASSISTANT COMMISSIONER (ST) (FAC)
VANAGARAM ASSESSMENT CICLE
NO.4/109 CHENNAI BANGALORE HIGHWAYS
VARADHARAJAPURAM NAZARATHPET
POONAMALLEE. ...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the respondent in Order having reference No. ZD330225019179K dated 03.02.2025 in GSTN 33AGEPA7179A1ZW/2020-2021 for the FY 2020-2021 and quash the same as illegal arbitrary and in violation of principle of natural justice.

For Petitioner : M/s. Ramesh Kumar Chopra and others

For Respondent : Mr.T.N.C.Kaushik
Additional Government Pleader (T)

Order

Heard M/s. Ramesh Kumar Chopra learned counsel appearing for the petitioner and Mr.T.N.C.Kaushik, learned Additional Government Pleader (T) who takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order passed by the respondent dated 03.02.2025 and to quash the same.

3. The learned counsel for the petitioner would submit that all the notices/communications, which culminated in the impugned order were merely uploaded in the GST Portal under the column, "View additional notices and orders", unfortunately, the Consultant, who was engaged by the petitioner for filing returns, failed to note those notices and intimate the petitioner, since the Consultant was not only working for the petitioner but also working for other taxpayers, hence, the petitioner was not aware of those notice and failed to file reply to those notices, however, since the petitioner failed to file reply, the respondent, without hearing the petitioner, confirmed the proposals contained in the show cause notice and passed the present impugned order.

3.1 Therefore, the learned counsel would submit that the impugned order suffers from violation of principles of natural justice and is liable to be aside. However, the learned counsel would submit that in the event, this Court is inclined to set aside the impugned order, the petitioner is agreable to pay 10% of the disputed tax amount and hence, prayed for appropriate order

4. The learned Additional Government Pleader (T) for the respondent fairly submitted that if the petitioner is ready and willing to deposit 10% of the disputed tax, then, the prayer sought for by the petitioner may be considered.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. On perusal of records, it is crystal clear that the impugned order came to be passed against the petitioner, behind their back, as the respondent-Department has not taken any steps to serve any notices/communications, which culminated in the impugned order directly through physical mode of service and made it available only in the GST Portal under the "View of additional notices and orders' column, hence, the petitioner was not aware of any such notices, and only when the respondent-Department initiated recovery proceedings against the petitioner, the petitioner became aware of the impugned order.

6.1 Thus, the respondent passed the impugned order without affording any opportunity of hearing to the petitioner, which is in total violation of principles of natural justice. Therefore, this Court is inclined to set aside the impugned order with the following orders/directions:-

i) The impugned order dated 03.02.2025 is set aside and the matter is remanded back to the respondent for fresh consideration.

ii) While remanding the matter, it is made clear that the impugned order is set aside subject to the condition that the petitioner deposits 10% of the disputed tax within a period of four weeks from the date of receipt of a copy of this order.

iii) Thereafter, the petitioner shall file a reply within two weeks and after the filing of reply, the respondent is directed to provide a personal opportunity of hearing by issuing clear 14 days notice and after hearing the petitioner in full, shall decide the matter in accordance with law.

iv) The respondent-Department also, upon production of proof with regard to payment of 10% of the disputed tax made by the petitioner, is directed to pass appropriate orders towards defreezure of the petitioner's bank account forthwith and shall permit the petitioner to operate the bank account.

 7. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

04.04.2025

sd

Index : yes/no
Neutral Citation : yes/no

To

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Krishnan Ramasamy,J.,

sd

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