IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 02.04.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.11331 of 2025
and
W.M.P.Nos.12768 & 12769 of 2025

M/s. Meyer Organics Private Limited
REP BY ITS DEPUTY GENERAL MANAGER-
ACCOUNTS AND FINANCE
MRS.JAGRUTI BONAVATE
GROUND FLOOR 37 / 13 MATANGI PONNUSAMY
STREET ROYAPETTAH CH- 600 014. ...Petitioner

Vs.

1. The Assistant Commissioner of GST and
Central Excise MYLAPORE DIVISION
CHENNAI NORTH COMMISSIONERATE 26/1 MAHATMA
GANDHI ROAD NUNGAMBAKKAM CHENNAI 600034.

2 THE SUPERINTENDENT
C CHENNAI NORTH D MYLAPORE. ...Respondents

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 1st respondent in Order-in-Original No.06/2024 (DIN.20240359TK00000ADAD) and the consequential Form GST DRC-07 bearing Ref No.DRC07_06/2024 issued by the 2nd respondent and quash the order dated 22.03.2024 passed by the 1st respondent herein and the consequential proceedings dated 01.04.2024 issued by the 2nd respondent herein.

For Petitioner : Mrs.Hema Muralikrishnan
For Respondents : Mr.Rajnish Pathiyil
Senior Panel Counsel

<u>Order</u>

Heard Mrs.Hema Muralikrishnan learned counsel appearing for the petitioner and Mr.Rajnish Pathiyil learned Senior Panel Counsel who takes notice on behalf of the respondents. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The learned counsel for the petitioner would submit that all the show cause notice/personal hearing notice, which culminated in the impugned orders, were merely uploaded in the GST Portal under the "View Additional Notices Tab", and the letter, that was alleged to have sent by the respondent-Department to the petitioner's registered address returned with an endorsement 'Undeliverable'; apart from the same, since the petitioner has closed the business, and the petitioner's GST registration was cancelled by the respondent-Department as early as on 07.06.2023, the petitioner has not followed the GST issues as the petitioner could not have access over the GST portal and the petitioner was also under the impression that all the GST issues are settled and only when the petitioner's employee received a phone call from the second respondent about the impugned proceedings, who in turn, informed the same to the petitioner, the petitioner came to be know of the tax liability.

3. Therefore, the learned counsel would submit that the impugned orders suffer from violation of principles of natural justice and are liable to be aside, as the petitioner has not been heard before passing the impugned orders. However, it is stated that the petitioner is also ready and willing to deposit 25% of the disputed tax, in the event, this Court is inclined to set aside the impugned orders and remand the matter back to the Authority for fresh consideration, and thus, prays for appropriate orders.

4. The learned Special Panel Counsel (T) for the respondents fairly submitted that since the petitioner has voluntarily come forward to deposit 25% of the disputed tax, the prayer sought for by the petitioner may be considered.

5. Taking into consideration of the submissions made on either side and perusal of record, there is no dispute on the aspect that notices, which culminated in the impugned order were merely uploaded in the GST under the "View Additional Notices Tab". Apart from the same, the letter, dated 11.01.2024 sent by the respondent-Department to the petitioner's registered address returned with an endorsement, 'Undeliverable'. Further, it is seen that since the petitioner has closed the business, and the petitioner's GST registration was cancelled by the respondent-Department as early as on 07.06.2023, the petitioner has not followed the GST issues as the petitioner could not have access over the GST portal and the petitioner was also under the impression that all the GST issues are settled and only when the petitioner's employee received a phone call from the second respondent about the impugned proceedings, who in turn, informed the same, the petitioner came to be know of the tax liability. However, the impugned orders came to be passed against the petitioner as if, the petitioner failed to file reply nor appeared for the personal hearing. Thus, as rightly pointed out by the learned counsel for the petitioner the respondents passed the impugned orders without even affording any opportunity of hearing to the petitioner, which are nothing but an ex parte order, as the same suffers from violation of principles of natural justice.

6. Thus, once the order is passed in violation of principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit, however, since the petitioner, themselves, have voluntarily come forward to deposit 25% of the disputed tax, to which, the learned Special Panel Counsel is also agreable, this Court is inclined to pass/issue the following orders/directions:-

i) The Order-in-Original dated 22.03.2024 passed by the 1st respondent herein and the consequential proceedings dated 01.04.2024 issued by the 2nd respondent herein are set aside.

ii) Consequently, the matter is remanded to the first respondent for fresh consideration.

iii) The petitioner is granted liberty to deposit 25% of the disputed tax, which the petitioner themselves have voluntarily came forward to make such payment within a period of two weeks from the date of receipt of a copy of this order.

iv) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

v) Thereupon, the first respondent is directed to consider the reply and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

7. In the result, the Writ Petition is allowed on the aforesaid terms.

No costs. Consequently, connected Miscellaneous Petitions are closed.

02.04.2025

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Index : yes/no
Neutral Citation : yes/no

To

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Krishnan Ramasamy,J.,

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