

W.P. No.35628 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.35628 of 2024

and

W.M.P.Nos.38488 and 38489 of 2024

M/s.Helios Pharmacy,
Rep. by its Partner Mr.M.Ramasubramanian,
41/42, 53/54, Sathyadev Avenue,
MRC Nagar, Chennai,
Tamil Nadu, 600 028.

... Petitioner

Vs.

The Commercial Tax Officer,
Commercial Taxes Department,
Mandaveli South-1,
Chennai South,
Tamil Nadu.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, call for the assessment order dated 27.04.2024 via reference No.ZD330424219352S (“Impugned Order”) issued by the respondent and quash the same as illegal and arbitrary and direct the respondent to remove the Intimation Notice dated 09.09.2024 proposing to attach bank accounts under Section 73(9) of the SGST Act, 2017.

For Petitioner : Mr.A.Dhamodaran

For respondent : Ms.Amrita Dinakaran,
Government Advocate.



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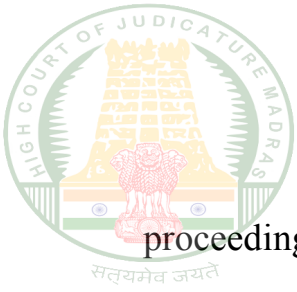
ORDER

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The present writ petition is filed challenging the impugned order passed by the respondent dated 27.04.2024 relating to the assessment year 2018-19.

2. It is submitted by the learned counsel for the petitioner that the petitioner is a trader and reseller of pharmaceutical products and is registered under the Goods and Services Tax Act, 2017. During the relevant period of 2018-19, the petitioner filed its returns and paid the appropriate taxes. However, on verification of the petitioner's annual return, it was found that the petitioner had not filed annual return in Form GSTR-9 and GSTR-9C.

3. It is submitted by the learned counsel for the petitioner that an intimation in Form DRC01A was issued on 26.10.2022 followed by a notice in DRC 01 on 07.07.2023. Further, personal hearing was offered on 18.07.2023. However, the petitioner had neither filed its reply nor availed the opportunity for a personal hearing. It is submitted by the learned counsel for the petitioner that neither the show cause notices nor the impugned order of assessment has been served on the petitioner by tender or sending it by RPAD, instead it had been uploaded in the GST Portal, thereby, the petitioner was unaware of the initiated



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proceedings and was thus unable to participate in the adjudication proceedings.

It is submitted by the learned counsel for the petitioner that if the petitioner is provided with an opportunity, they would be able to explain the alleged discrepancies.

4. The learned counsel for the petitioner would place reliance upon the recent judgment of this Court in the case of *M/s.K.Balakrishnan, Balu Cables vs. O/o. the Assistant Commissioner of GST & Central Excise in W.P.(MD)No.11924 of 2024 dated 10.06.2024*, to submit that this court has remanded the matter back in similar circumstances subject to payment of 25% of the disputed taxes.

5. It was further submitted that the petitioner is ready and willing to pay 25% of the disputed tax and that they may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal, to which the learned Government Advocate appearing for the respondent does not have any serious objection.

6. In view thereof, the impugned order dated 27.04.2024 is set aside and the petitioner shall deposit 25% of the disputed tax within a period of four weeks



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from the date of receipt of a copy of this order. The impugned order of

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assessment shall be treated as show cause notice and the petitioner shall submit its objections within a period of four weeks from the date of receipt of a copy of this order along with supporting documents/material. If any such objections are filed, the same shall be considered by the respondent and orders shall be passed in accordance with law after affording a reasonable opportunity of hearing to the petitioner. If the above deposit is not paid or objections are not filed within the stipulated period, i.e., four weeks from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored.

7. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

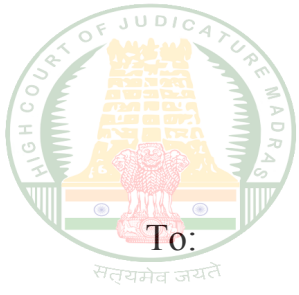
29.11.2024

Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

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To:

WEB TO GO
The Commercial Tax Officer,
Commercial Taxes Department,
Mandaveli South-1,
Chennai South,
Tamil Nadu.





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MOHAMMED SHAFFIQ, J.

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