

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.04.2023

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.Nos.10371, 10372 & 10373 of 2023 and
WMP.Nos.10334, 10335 & 10336 of 2023

M/s Shido Pharma,
represented by its Proprietor,
No.108/A4 Nallur Road,
Vijayanallur, Red Hills,
Chennai 600 067.

... Petitioner in all W.P's

Vs

1.The Assistant Commissioner (ST),
Adjudication, Intelligence-1,
Officer of the Joint Commissioner (ST),
Intelligence – I,
Chennai – 600 006.

2.The Deputy State Tax Officer,
Static Roving Squad,
Office of the Joint Commissioner (ST),
Intelligence – I,
Chennai – 600 006.

3.The State Tax Officer
Adjudication, Intelligence – 1,
Chennai.

... Respondents in all W.P.'s



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PRAYER in W.P.No.10371 of 2023: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the first respondent in his proceedings in Order No.889/2022-23/ADJ, quash the order dated 24.03.2023 passed therein.

PRAYER in W.P.No.10372 of 2023: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the first respondent in his proceedings in Order No.892/2022-23/ADJ, quash the order dated 24.03.2023 passed therein.

PRAYER in W.P.No.10372 of 2023: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the first respondent in his proceedings in Order No.890/2022-23/ADJ, quash the order dated 24.03.2023 passed therein.

in all WP's

For Petitioner

: Mr.R.L.Ramani, Standing Counsel
for Mr.B.Raveendran

For Respondents

:Mrs.E.Ranganayaki
Additional Government Pleader

COMMON ORDER

Mrs. E.Ranganayaki, Additional Government Pleader accepts notice for the respondents and is armed with necessary instructions. The officer is also present before this court to enable the disposal of this petition even at this juncture.

2. The petitioner challenges an order of Goods detention under Section 129 (3) of the State Goods and Services Act, 2017 (in short 'SGST Act'), read with the relevant provisions of the CGST Act, 2017/IGST Act,



2017/GST(Compensation to States) Act, 2017. The main ground is that the

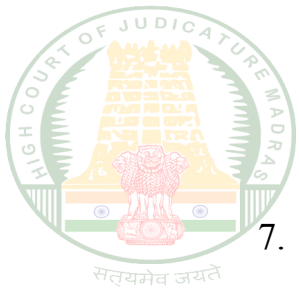
petitioner was not offered any hearing prior to passing of the impugned order.

3. Learned Standing Counsel was requested to produce the records to ascertain this aspect of the matter and has produced a record of personal hearing on 24.03.2023, where the presence of the petitioner is noted. However, that personal hearing is with reference to a notice issued by the respondent on 18.03.2023, that had proposed an addition under the provisions of the Intergrated Goods and Services Tax Act, 2017(in short 'IGST Act').

4. The petitioner had filed a detailed reply on 24.03.2023 stating that the provisions of the IGST Act are inapplicable to the transaction in question. On the same date, the respondent has issued a revised notice, in Form GST MOV - 07 proceeding to apply the applicable provisions of the CGST/SGST Act.

5. However, no opportunity was granted to the petitioner to respond to that notice and the petitioner was further never heard. What had transpired on 24.03.2023 was a hearing only in respect of notice dated 18.03.2023 and not subsequent notice dated 24.03.2023.

6. Thus, there is some merit in the allegation that the proceedings have been concluded contrary to the principles of natural justice. Impugned orders bearing Nos.889/2022-23/ADJ, 892/2022-23/ADJ and 890/2022-23/ADJ, all dated 24.03.2023, are thus set aside.



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7. The petitioner is permitted to appear before the 1st respondent on 05.04.2023 at 10.30 a.m., without expecting any further notice in this regard along with a reply to notice dated 24.03.2023. After hearing the petitioner and considering the reply, if any, orders shall be passed de novo within a period of one week from 05.04.2023.

8. These Writ Petitions are allowed in the above terms. No costs. Connected Miscellaneous Petitions are closed.

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03.04.2023

Index : Yes / No

Speaking Order / Non Speaking Order

Neutral Citation: Yes/No

To

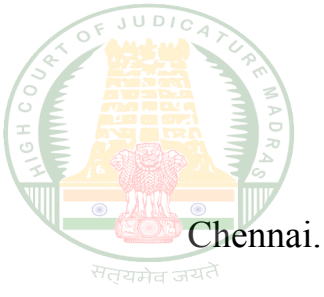
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Dr.ANITA SUMANTH, J.

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