IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 20.03.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.7005 of 2024
and W.M.P.Nos.7817 & 7820 of 2024

Tvl.Lakshmi Tex,
Rep by its Proprietor,
26, Chokkanathar Street,
Erode - 638 001. ... Petitioner

-vs-

Deputy State Tax Officer - 1,
Park Road Assessment Circle,
Erode. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the entire records relating to the order in Reference No. ZD331023031837P dated 06.10.2023 passed by the respondent and quash the same.

For Petitioner : Ms.R.Sri Visvapriya

For Respondent : Mr.V.Prashanth Kiran, GA (T)

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ORDER

An order dated 06.10.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand. The petitioner is a dealer of woven fabrics in cotton and readymade garments and a registered person under applicable GST enactments. Pursuant to the scrutiny of returns filed by the petitioner, a show cause notice was issued to the petitioner on 23.06.2023. The petitioner asserts that he could not reply to the show cause notice because he was awaiting particulars from his supplier, Srinivasa Textiles, Tiruppur, in order to show cause effectively. The impugned order was issued in the said facts and circumstances.

2. Learned counsel for the petitioner invited my attention to the subsequent communication dated 22.11.2023 from the petitioner to the respondent and pointed out that the petitioner had enclosed the relevant purchase invoice to establish that there was no discrepancy and that consequently no tax liability is imposable on the petitioner. On instructions, she submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He points out that the petitioner admits receipt of the intimation and show cause notice. He further submits that the petitioner was also offered a personal hearing and that principles of natural justice were adhered to.

4. On examining the show cause notice and impugned order, it is clear that the entire tax liability is with regard to disparity between the GSTR-3B and GSTR-2B returns. The petitioner has, albeit

subsequent to the issuance of such order, explained that ITC was validly availed of by submitting documents in support thereof. Undoubtedly, the petitioner was negligent in not doing so upon receipt of the intimation and show cause notice. Nonetheless, if the explanation of the petitioner is valid, the interest of justice would be prejudiced unless the petitioner is provided an opportunity to explain the alleged disparity.

5. For reasons set out above, albeit by putting the petitioner on terms, the impugned order calls for interference. Therefore, the impugned order is quashed subject to the condition that the petitioner remits 10% of the disputed tax demand as agreed to within a maximum period of ***two weeks*** from the date of receipt of a copy of this order. The petitioner is also permitted to submit a reply within the aforementioned period. Subject to the receipt of the petitioner's reply and upon being satisfied that 10% of the disputed tax demand was received, the assessing officer is directed to provide a reasonable

opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh assessment order within a period of ***two months***.

6. W.P.No.7005 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.7817 and 7820 of 2024 are closed.

20.03.2024

rna
Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

To

Deputy State Tax Officer - 1,
Park Road Assessment Circle,
Erode.

SENTHILKUMAR RAMAMOORTHY,J

rna

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