IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.03.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.8255 of 2024
&
W.M.P.Nos.9213 & 9219 of 2024

M/s.Kumaran Cotspin
Rep. By its Proprietrix Mrs.D.Ragavi
No.2/9-2, Andikkadu, Anangur Village,
Namakkal District. ... Petitioner

-vs-

The Deputy State Tax Officer-2,
Pallipalayam Circle,
Namakkal District. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the Respondent vide his order in GSTIN:33AXNPR1303B1ZZ/20172018 dated 30.12.2023, quash the same as it is illegal & in gross violation of Principles of Natural Justice and further direct the respondent to re-do the assessment afresh after proper verification of documents & record by providing an opportunity of Personal Hearing.

For Petitioner : Mr.R.D.Ganesan

For Respondent : Mrs.K.Vasanthamala
Government Advocate (Taxes)

ORDER

An assessment order dated 30.12.2023 is challenged on the ground that documents submitted by the petitioner were not duly considered and that the petitioner was not provided a reasonable opportunity.

2. The petitioner is a dealer in polyester yarn and had filed returns pertaining to the assessment period 2017-2018. In relation thereto, upon noticing the disparity between the petitioner's GSTR 3B returns and the auto populated GSTR 2A returns, a show cause notice was issued to the petitioner on 23.08.2023. The petitioner replied thereto on 27.10.2023 by enclosing documents such as cash ledger details, reconciliation report, purchase register, details of taxable inward supplies received from registered suppliers, etc. The impugned order was issued thereafter on 30.12.2023.

3. Learned counsel for the petitioner submits that the respondent did not call for a certificate from the supplier in terms of Circular No.183/15/2022-GST dated 27.12.2022 (Circular No.183). He further submits that the impugned order proceeds on the erroneous basis that the petitioner submitted invoice copies pertaining to Shri Sakthi Spinners without realizing that the said invoice indicates that the buyer was the petitioner.

4. Mrs.Vasanthamala, learned Government Advocate (Taxes), accepts notice for the respondent. She submits that the certificate from the supplier was issued on 20.02.2024, which is subsequent to the impugned order. If such certificate had been obtained and submitted to the respondent, she submits that the respondent would have had relevant documents to effectively adjudicate the matter.

5. After pointing out that the supplier's certificate explains the disparity except to the extent of Rs.91,513/-, on instructions, learned counsel submits that the petitioner is willing to remit a sum of Rs.1,00,000/- towards the disputed tax demand as a condition for remand.

6. The entire tax liability is on account of the disparity between the petitioner's GSTR 3B return and the auto-populated of GSTR 2A return. In accordance with Circular No.183, the petitioner obtained a certificate from the supplier albeit belatedly. The reply of the petitioner indicates that documents in support of the contention that the purchases were genuine were submitted. In these circumstances, it is just and necessary that the petitioner be provided an opportunity to effectively deal with the tax demand after putting the petitioner on terms.

7. Therefore, the impugned order dated 30.12.2023 is set aside on condition that the petitioner remits a sum of Rs.1,00,000/- towards the disputed tax demand. Subject to receipt thereof, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue a fresh order within two months from the date of receipt of the above mentioned sum of Rs.1,00,000/-. Consequently, connected miscellaneous petitions are closed. No costs.

27.03.2024

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

The Deputy State Tax Officer-2,
Pallipalayam Circle,
Namakkal District.

SENTHILKUMAR RAMAMOORTHY J.

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