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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.10141 of 2024 and
W.M.P.No.11190 of 2024

M/s. Sri Krishna Textile Mills,
Represented by M.Kanagaraj,
Partner,
SF No.38, Door No.184, 1st Floor,
38 K Mettupalayam Kosanam Village,
Kurumanthur Post, Kommakalipalayam,
Erode – 638 457. ... Petitioner

Vs.

The Assistant Commissioner,
1, Brough Road,
Erode – 638 001. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records on the files of the respondent in ZD330124162939E dated 31.01.2024 and quash the same.

For Petitioner : Mr.V.Srikanth
For Respondent : Mrs.K.Vasanthamala
Government Advocate (Taxes)

O R D E R

An order rejecting an application for refund of unutilised input tax credit is challenged in this writ petition.

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2. The petitioner states that he is engaged in the business of manufacturing and supplying cotton yarn out of combed cotton and synthetic stable fibre. On account of the fact that the inputs purchased by the petitioner are taxed at higher rates than the output, it is stated that the petitioner has unutilised input tax credit, and is, consequently, entitled to refund. Upon making such refund application, the application was rejected on the ground that the inverted turnover does not match the GSTR returns.

3. Learned counsel for the petitioner submits that the petitioner had submitted invoices issued by the supplier and invoices raised by the petitioner in relation to outward supply. He also points out that such refund application is required to be processed in accordance with Circular No.135/05/2020 – GST issued by the Central Board of Indirect Taxes and Customs on 31.03.2020. Without following the mandate of such circular, learned counsel submits that the refund application was rejected.

4. Mrs.K.Vasanthamala, learned Government Advocate (Taxes) accepts notice for the respondent. She points out that the petitioner failed

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to reply to the notice for rejection or appear before the Officer on 05.01.2024. Consequently, she submits that the respondent was constrained to reject the refund application.

5. On perusal of the impugned order, the following reasons are set out for rejecting the application.

> "On verification of the refund details, with GSTR 1, GSTR 3B and GSTR 2A returns, the inverted turnover does not match with GSTR Returns."

6. The petitioner asserts that all relevant documents, including invoices raised by the supplier and invoices issued by the petitioner in respect of outward supplies were submitted. On perusal of the above extracted operative portion of the order, it appears that the application was rejected on the ground that the inverted turnover does not match the GSTR 1, GSTR 3B and GSTR 2A returns. The respondent should have examined the application in accordance with Section 54 of applicable GST enactments, the rules framed thereunder and the Circular referred to above. Since such exercise has not been undertaken properly, the matter requires reconsideration.

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7. For reasons set out above, the impugned order is set aside and the matter is remanded to the respondent for reconsideration. The petitioner is permitted to submit additional documents within a period of three weeks from the date of receipt of a copy of this order. Upon 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 additional documents from the petitioner.

8. The Writ Petition is disposed of on the above terms. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Speaking Order : Yes/No

Neutral Citation : Yes / No

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To

The Assistant Commissioner,
1, Brough Road,
Erode – 638 001.

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SENTHILKUMAR RAMAMOORTHY, J.

Sgl

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