IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **17.04.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.10047 of 2024
and W.M.P.Nos.11056 & 11057 of 2024

M/s.Winndsor Cotton Mills (P) Ltd.
(Rep. by its Managing Director Mr.Arun Thangam)
SF No.429, Puthupalayam Village, Pasur (PO), Annur,
Coimbatore 641 653. ... Petitioner

-vs-

The Assistant Commissioner (ST),
Office of the Assistant Commissioner,
Annur Assessment Circle,
Coimbatore 641 663. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the files of the respondent in impugned order with Ref.No. ZD33122368147J dated 29.12.2023 in Form GST DRC-07 along with the proceedings in GSTIN: 33AAACW5994N1ZN/2017-18 dated 29.12.2023 and quash the same.

For Petitioner : Mr.N.Prasad

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

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ORDER

An order dated 29.12.2023 is challenged on the ground that the petitioner's replies to the show cause notice were not taken into consideration. An audit of the books of account of the petitioner was undertaken. Pursuant thereto, show cause notice dated 27.09.2023 was issued to the petitioner. The petitioner replied thereto on 26.10.2023. Pursuant to personal hearing notice dated 05.12.2023 a personal hearing was held on 06.12.2023. Thereafter, the petitioner submitted a further communication dated 20.12.2023. The impugned order was issued in these facts and circumstances on 29.12.2023.

2. Learned counsel for the petitioner invited my attention to the reply dated 20.12.2023 and pointed out that the petitioner had responded to each defect forming the subject of the audit and the show cause notice. He also pointed out that the petitioner attended the personal hearing on 06.12.2023 and submitted communication dated 20.12.2023 with regard to reversal of Input Tax Credit while filing the reconciliation statement. By drawing reference to the impugned order, learned counsel submits that the petitioner's reply was disregarded and that the findings recorded in audit were confirmed.

3. Mr.V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. On instructions, he submits that the petitioner's reply dated 26.10.2023 was not received and that the only reply received was the reply dated 20.12.2023, which is referred to in the impugned order.

4. On perusal of the impugned order, it is clear that such order

was issued by the Assistant Commissioner (ST), Annur Assessment Circle, Coimbatore. On examining the reply dated 26.10.2023, such reply bears the acknowledgment of the office of the Assistant Commissioner (ST), Annur Circle. The subsequent communication from the petitioner dated 20.12.2023 was also issued to the same officer. Against this backdrop, when the impugned order is examined, it is noticeable that the petitioner's reply was not taken into account except for reply dated 20.12.2023, which is in the nature of a supplement to the primary reply. Since the petitioner's reply was not considered, the impugned order cannot sustained.

5. Therefore, impugned order dated 29.12.2023 is set aside and the matter is remanded for re-consideration. The respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, take into consideration the petitioner's replies and issue a fresh order within ***two months*** from the date of receipt of a copy of this order.

6. W.P.No.10047 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.11056 and 11057 of 2024 are closed.

17.04.2024

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

To

The Assistant Commissioner (ST),
Office of the Assistant Commissioner,
Annur Assessment Circle,
Coimbatore 641 663.

SENTHILKUMAR RAMAMOORTHY,J

rna

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