IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **29.04.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.11414 of 2024
&
WMP Nos.12516 & 12522 of 2024

M/s.Mukund Fashion,
Represented by its Proprietrix,
No.25, 1st Floor, Godown Street,
Chennai-600 001. ... Petitioner

-vs-

The Deputy State Tax Officer-II (FAC),
Kothawalchavadi Assessment Circle,
Elephant Gate Bridge Road,
Chennai-03. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari to call for the records of the respondent in Order dated 4/7/23 in GSTN 33ARHPS4414L1ZL/2018-19 and quash the same as illegal, arbitrary and in violation of principle of natural justice.

For Petitioner : Ms.C.Rekhakumari

For Respondent : Mr.V.Prashanth Kiran
Government Advocate (Taxes)

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ORDER

An order in original dated 24.07.2023 in respect of assessment period 2018-19 is challenged.

2.The petitioner is a dealer in textile and ready-made garments. By asserting that the accountant who was entrusted with GST compliances did not know about the impugned proceedings because the notice and order were uploaded on the 'View Additional Notices and Order' tab of the GST portal , the present writ petition was filed.

3. Learned counsel for the petitioner submits that the tax proposal pertained to the disparity between the petitioner's GSTR 3B returns and the auto-populated GSTR 2A. She also points out that the entire amount due towards tax, interest and penalty was appropriated from the petitioner's bank account. In these circumstances, she seeks another opportunity.

4. Mr.V.Prashanth Kiran, learned Government Advocate,

accepts notice for the respondent. By referring to the impugned order, he points out that such order was preceded by a notice in Form ASMT-10 dated 11.05.2023, show cause notice dated 12.06.2023 and a personal hearing reminder dated 13.07.2023. He confirms that a sum of Rs.3,18,158/- was recovered from the petitioner's bank account.

5. On perusal of the impugned order, it is clear that the tax proposal was confirmed because the petitioner did not reply to the show cause notice. Since the entire amount, including tax, interest and penalty, was appropriated from the bank account of the petitioner, the interest of revenue stands fully secured at this juncture. In these circumstances, it is just and necessary to provide an opportunity to contest the tax demand on merits.

6. For reasons set out above, the impugned order dated 24.07.2023 is set aside and the matter is remanded to the respondent for reconsideration. The petitioner is permitted to submit a reply to the show cause notice dated 12.06.2023 within fifteen days 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 three months from the date of receipt of the petitioner's reply. For the avoidance of doubt, it is made clear that the sum of Rs.3,18,158/-, which was appropriated from the petitioner's bank account, shall abide by the outcome of the remanded proceedings.

7. W.P.No.11414 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.12516 and 12522 of 2024 are closed.

29.04.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

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To

The Deputy State Tax Officer-II (FAC),
Kothawalchavadi Assessment Circle,
Elephant Gate Bridge Road,
Chennai-03.

SENTHILKUMAR RAMAMOORTHY J.

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