IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **03.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.Nos.12038,12045, 12050, 12096 & 12098 of 2024
&
WMP Nos.13142, 13143, 13144, 13148, 13149, 13153, 13154,13186, 13187, 13189 & 13190 of 2024

In all Writ Petitions

Subramani Suresh
(Proprietor of M/s.Sri varalakshmi Silks),
No.186, NA, Main Road, Barugur,
Krishnagiri-635 104. ... Petitioner

vs

In all Writ Petitions

1. The Deputy State Tax Officer-,
(also known as Commercial Tax Officer-I),
Krishnagiri-II.

2. The Manager,
Indian Overseas Bank
28Y2 KS Govinda Chetty Street,
Bargur-635 104. ... Respondents

PRAYER in W.P.No.12038 of 2024: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari to call for the records on the file of the 1st Respondent herein in FORM GST DRC-07 with Reference No.:ZD331023164955F dated 27.10.2023 along with detailed proceeding in GST: 33CVSPS9182C1zO dated 26.10.2023 for the tax period 2017-18 and quash the same.

PRAYER in W.P.No.12045 of 2024: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari to call for the records on the files of the Respondent herein, in the impugned order with in Reference with:ZD331023173666H dated 27.10.2023 for the tax period JUL 2017- - MAR 2018 in FORM GST DRC-07 along with the Annexure in GST No.33CVSPS9182C1Z0/2017-18 dated 27.10.2023 and quash the same.

PRAYER in W.P.No.12050 of 2024: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari to call for the records on the files of the Respondent herein, in the impugned order with in Reference No.:ZD331223039819B dated 07.12.2023 for the tax period APR 2018- - MAY 2019 in FORM GST DRC-07 along with the Annexure in GST No.33CVSPS9182C1Z0/2018-19 dated 7.12.2023 and quash the same.

PRAYER in W.P.No.12096 of 2024: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari to call for the records on the files of the 1st Respondent in FORM GST DRC-07 with Reference No.:ZD331023211883U dated 31.10.2023 along with detailed proceeding in GST:33CVSPS9182C1ZO dated 31.10.2023 for the tax period 2019-20 and quash the same.

PRAYER in W.P.No.12098 of 2024: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari to call for the records on the files of the 1st Respondent in FORM GST DRC -07 with Reference No.:ZD331123158330Z dated 25.11.2023 along with detailed proceeding in GST:33CVSPS9182C1ZO dated 25.11.2023 for the tax period 2020-21 and quash the same.

In all WPs:

For Petitioner : Mr.N.Chandirasekar

For Respondents: Mr.V.Prasanth Kiran
Government Advocate(T) for R1

COMMON ORDER

By these five writ petitions, separate orders in original are challenged on the common ground of not providing a reasonable opportunity to the petitioner to contest the tax demand on merits.

2. The petitioner asserts that he was unaware of proceedings culminating in the impugned assessment years because the show cause notice and impugned orders were uploaded on the GST portal but not communicated to the petitioner through any other mode.

3. Learned counsel for the petitioner submits that the confirmed tax proposal in W.P.Nos.12045, 12050, 12096 and 12098 of 2024 relate

to a common issue of alleged mismatch between the petitioner's GSTR 3B and the auto-populated GSTR 2A. In all these cases, learned counsel contends that such mismatch occurred on account of an inadvertent error committed by the petitioner while filling up the GSTR 3B forms. Consequently, he submits that the petitioner would be in a position to explain the mismatch if provided an opportunity. As regards the confirmed tax proposal in W.P.No.12038 of 2024, learned counsel submits that the GST liability was imposed on the petitioner merely with reference to the purchase turnover. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand in respect of each assessment period as a condition for remand.

4. Mr.Prashanth Kiran, learned Government Advocate, accepts notice for the first respondent. By drawing reference to orders impugned herein, learned counsel points out that such orders were preceded by an intimation, show cause notice and personal hearing notices.

5. On perusal of the orders impugned herein, it is clear that the tax proposal was confirmed because the petitioner failed to respond to the show cause notice or appear at the personal hearing. The petitioner has pointed out that the mismatch between the returns in GSTR 3B and auto-populated GSTR 2A occurred on account of an inadvertent error committed by the petitioner while filling up the GSTR 3B forms. Even as regards the confirmed tax demand in W.P.No.12038 of 2024, it appears that the tax proposal was confirmed on the basis of the purchase turnover because the petitioner failed to reply. In these facts and circumstances, it is just and appropriate that the petitioner be provided an opportunity to contest the tax demand on merits, albeit by putting the petitioner on terms.

6. For reasons set out above, orders impugned in these writ petitions are set aside on condition that the petitioner remits 10% of the disputed tax demand in respect of each assessment period. Such remittance shall be made within three weeks from the date of receipt of a copy of this order. Within the aforesaid period, the petitioner is

also permitted to submit replies to the respective show cause notice. Upon receipt thereof and upon being satisfied that 10% of the disputed tax demand was received, the respondent is directed to provide a reasonable opportunity, including a personal hearing, and thereafter issue fresh orders within three months from the date of receipt of the petitioner's reply. In view of quashing the impugned orders, the bank attachment shall stand raised.

7. These writ petitions are disposed of on the above terms without any order as to costs. Consequently, the connected miscellaneous petitions are closed.

03.06.2024

Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

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To

1. The Deputy State Tax Officer-,
   (also known as Commercial Tax Officer-I),
   Krishnagiri-II.

2. The Manager,
   Indian Overseas Bank
   28Y2 KS Govinda Chetty Street,
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SENTHILKUMAR RAMAMOORTHY J.

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