IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **12.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.14502 of 2024 and W.M.P.Nos.15779 & 15780 of 2024

Tvl. J.Roja Silks,
Represented by its Proprietor,
Mr.Jagatheswaran,
2290A, Trichy Road,
Ondipudur Post,
Tamil Nadu-641 016. ... Petitioner

-vs-

The Assistant Commissioner (ST),
Singanallur North Circle,
Coimbatore-18. ... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the respondent in the impugned order dated 06.10.2023 passed in GSTIN:33ANKPJ3261D1ZD/2021-2022 and quash the same as it has been passed in violation of principles of natural justice.

For Petitioner : Ms.N.Janani
for Mr.Adithya Reddy

For Respondent : Mr.T.N.C.Kaushik, Addl. Govt. Pleader (T)

ORDER

An assessment order dated 06.10.2023 is challenged on the ground of breach of principles of natural justice. By asserting that the impugned order was issued about nine months after the show cause notice without providing any further opportunity to the petitioner, the present writ petition was filed.

2. The petitioner states that he deals in textile and had opted for the composition scheme under Section 10 of applicable GST enactments. As a consequence, he states that he is required to file a quarterly return in Form GSTR 4. By further stating that liability cannot be imposed merely on comparison of the auto-populated GSTR 2A and the return in Form GST CMP 08, learned counsel for the petitioner seeks another opportunity to contest the tax demand on merits.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader,

accepts notice for the respondent. He points out that the petitioner was called upon to provide a detailed explanation with regard to the sales turnover of Rs.11,67,751/- reported in 2021-2022 in contrast to the total value of purchases of Rs.27,90,189/- as per auto-populated GSTR 2A. Since no explanation was forthcoming, he submits that the tax proposal was confirmed.

4. A reply dated 04.02.2023 is on record. Such reply does not address the issue raised in the show cause notice. Since the tax proposal was confirmed without the petitioner being heard, the interest of justice warrants that an opportunity be provided to the petitioner to contest the tax demand on merits after putting the petitioner on terms. On instructions, learned counsel for the petitioner submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

5. Therefore, the impugned order dated 06.10.2023 is set aside and the matter is remanded for reconsideration on condition that the petitioner remits 10% of the disputed tax demand as agreed to within a period of two weeks

from the date of receipt of a copy of this order. Within the aforesaid period, the petitioner is permitted to submit a reply to the show cause notice. Upon receipt of the petitioner's reply and upon being satisfied that 10% of the disputed tax demand was received, 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.

6. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

12.06.2024

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

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To

The Assistant Commissioner (ST),
Singanallur North Circle,
Coimbatore-18.

SENTHILKUMAR RAMAMOORTHY,J

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