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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **18.06.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition Nos.14983 & 15033 of 2024
and W.M.P.Nos.16278, 16279, 16336 & 16337 of 2024

In both WPs.

Arun Clothing & Co.,
Represented by its Proprietor,
N.Arunkumar,
Under Ground, First Floor,
279, 280, 281, 282, 284,
Gandhi Bazzar, Bargur,
Krishnagiri-635 104. .. Petitioner

-vs-

Assistant Commissioner (ST),
Krishnagiri – II Circle,
559-5 Kallukkurukkal Village,
Saamanthamalal Post,
Collector Office Backside,
Krishnagiri-635 115. ... Respondent

Prayer in W.P.No.14983 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the

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impugned order of the respondent passed in GSTIN:33BFAPA9727A1Z3/2019-20 dated 10.07.2023 and quash the same.

Prayer in W.P.No.15033 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the impugned order of the respondent passed in GSTIN:33BFAPA9727A1Z3/2021-22 dated 10.07.2023 and quash the same.

In both WPs.

For Petitioner : Mr.N.Murali

For Respondent : Mrs.K.Vasanthamala, Govt. Adv. (T)

COMMON ORDER

By these two writ petitions, orders in original dated 10.07.2023 in respect of assessment period 2019-2020 and 2021-2022, respectively, are challenged on the ground that the petitioner was not provided a reasonable opportunity to contest the tax demand on merits.

2. The petitioner asserts that he had entrusted compliances to a

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consultant. Since the show cause notice and impugned orders were uploaded in the "View Additional Notices and Orders" tab on the GST portal and not communicated to the petitioner through any other mode, it is stated that the petitioner was unaware of proceedings until recently.

3. Learned counsel for the petitioner submits that the confirmed tax proposal pertains to a mismatch between the GSTR 3B return and the auto-populated GSTR 2A. If provided an opportunity, the petitioner would be in a position to establish that only eligible Input Tax Credit (ITC) was claimed. 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. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She submits that the impugned order was preceded by a notice in Form ASMT 10 and by a show cause notice. Therefore, she contends that principles of natural justice were complied with.

5. On examining the impugned orders, it is evident that the tax

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proposal was confirmed because the petitioner did not file written objections or attend the personal hearing. By taking into account the assertion that the petitioner could not participate in proceedings on account of being unaware of the same, the interest of justice warrants that the petitioner be provided an opportunity to contest the tax demand on merits by putting the petitioner on terms.

6. Therefore, the impugned orders dated 10.07.2023 are set aside and the matters are remanded for reconsideration on condition that the petitioner remits 10% of the disputed tax demand in respect of each assessment period as agreed to. Such remittance shall be made within a period of 15 days from the date of receipt of a copy of this order. The petitioner is permitted to submit a reply to the respective show cause notice within the aforesaid period. Upon receipt of the petitioner's reply and upon being satisfied that 10% of the disputed tax demand in respect of each assessment period was received, the respondent is directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and thereafter issue fresh orders within a period of three months from the date of receipt of the petitioner's

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reply.

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

18.06.2024

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

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To

Assistant Commissioner (ST),
Krishnagiri – II Circle,
559-5 Kallukkurukkal Village,
Saamanthamalal Post,
Collector Office Backside,
Krishnagiri-635 115.

SENTHILKUMAR RAMAMOORTHY,J

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