IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **24.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

Writ Petition No.15685 of 2024 and
W.M.P.Nos.17088 & 17090 of 2024

Tvl. Dhanalakshmi Sarees,
Represented by its Proprietor,
Mr. Emakalnatham Chinnabuddunaidu Srinivasan,
No.3, Chinna Bargur IDSMD Building,
Chinna Bargur, Krishnagiri,
Tamilnadu- 635 104. .. Petitioner

-vs-

Deputy State Tax Officer,
Krishnagiri-II Circle,
Hosur Division, Tamil Nadu. ... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned Order dated 24.12.2023 in FORM GST DRC-07 bearing GSTIN. No.33FMKPS1525K1ZR/2018-19 issued by the respondent along with its consequential demand Order dated 24.12.2023 having

Reference No. ZD3312231897754 and quash the same, as arbitrary.

For Petitioner : Mr.Sanskar Samdaria

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

ORDER

An assessment order dated 24.12.2023 is assailed in this writ petition on the ground of breach of principles of natural justice. The petitioner asserts that he was unaware of the impugned proceedings because the show cause notice and other communications were uploaded in the "View Additional Notices and Orders" tab on the GST portal and not communicated to the petitioner through any other mode. The present writ petition was filed in these circumstances.

2. Learned counsel for the petitioner submits that the tax proposal relates to a mismatch between the petitioner's GSTR 3B return and the auto-populated GSTR 2A. He points out that the petitioner would be in a position to establish that only eligible Input Tax Credit (ITC) was availed of, if provided an opportunity to contest the tax demand on merits. On

instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr. V.Prashanth Kiran, learned Government Advocate, accepts notice for the respondent. He points out that principles of natural justice were complied with by issuing intimation dated 05.10.2023, show cause notice dated 23.11.2023 and by offering a personal hearing.

4. On examining the impugned order, it appears that the tax proposal relates to the difference between the purchase and sales turnover of the petitioner. Such proposal was confirmed because the petitioner did not file written objections to the show cause notice or attend the personal hearing on 22.12.2023. In view of the petitioner's assertion that he 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.

5. For reasons set out above, the impugned order dated 24.12.2023 is set aside 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. The petitioner is permitted to submit a reply to the 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 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 a period of 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.

24.06.2024

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No
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SENTHILKUMAR RAMAMOORTHY,J

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To

Deputy State Tax Officer,
Krishnagiri-II Circle,
Hosur Division, Tamil Nadu.

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