IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.06.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.15911 of 2024
and W.M.P.Nos.17370 & 17373 of 2024

Tvl. Chennakesava Textiles,
[Represented by its Proprietor Mr.M.Chennakesavan],
Shop No.64,
Sri Mahalakshmi Textile Market,
Bargur, Krishnagiri,
Tamil Nadu 635 104. ... Petitioner

-vs-

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

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the files of the respondent herein in Form GST DRC – 07 with Reference No.: ZD331123166378F dated 27.11.2023 along with the detailed proceeding in GSTIN: 33BFGPC0688L1ZE dated 27.11.2023 for the tax period 2020-21 and quash the same.

For Petitioner : Mr.N.Chandirasekar

For Respondent : Mr.C.Harsha Raj, AGP (T)

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ORDER

An order in original dated 27.11.2023 is assailed in this writ petition on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner states that an inadvertent error was committed while filing the GSTR 3B return in as much as the petitioner's staff filled up column 4A(3) instead of 4A(5). Since the petitioner was unaware of these proceedings on account of the show cause notice and other communications being uploaded on the "view additional notices and orders" tab of the GST portal and not communicated to the petitioner through any other mode, the petitioner asserts that he could not participate in proceedings.

2. Learned counsel for the petitioner submits that an inadvertent error in filling up the column relating to reverse charge instead of all other ITC resulted in the confirmed tax proposal. On instructions, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing an intimation dated 25.08.2023, show cause notice dated 11.11.2023 and by offering a personal hearing.

4. On examining the impugned order, it is evident that the tax proposal relates to ITC claimed on inward RCM supplies. By taking into account the petitioner's explanation that such tax proposal arose out of an inadvertent error and the fact that the petitioner did not participate in proceedings, the interest of justice warrants re-

consideration by putting the petitioner on terms.

5. For reasons aforesaid, impugned order dated 27.11.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand within ***two weeks*** from the date of receipt of a copy of this order. Within the said period, the petitioner is permitted to submit a reply to the show cause notice. On receipt thereof and on 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. W.P.No.15911 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.17370 and 17373 of 2024 are closed.

27.06.2024

rna
Index : Yes / No

Internet : Yes / No
Neutral Citation: Yes / No

To

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

SENTHILKUMAR RAMAMOORTHY,J

rna

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