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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **02.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.16512 of 2024
and W.M.P.Nos.18097 & 18098 of 2024

Tvl.Rajkumar Kavitha,
Proprietor of Sri Varshini Yarn,
New No. 163, Erode, Vivekanandar Salai,
Erode, Tamil Nadu 638 011,
GSTIN. 33AIBPK3172A1ZZ. ... Petitioner

-vs-

Deputy Commercial Tax Officer,
Chithode, Erode, Tamil Nadu. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the Respondent herein in its Impugned Order passed by the Respondent in Order U/s 73 bearing a Ref No. ZD330823108815E dated 19.08.2023 for the Tax Period April 2019 - March 2020 and quash the same.

For Petitioner : Ms.R.Hemalatha

For Respondent : Mr.G.Nanmaran, Spl. G.P.

ORDER

An order dated 19.08.2023 is assailed on the ground that the petitioner

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was not provided a reasonable opportunity to contest the tax demand on merits. By asserting that the petitioner could not participate in proceedings on account of not being aware of the same, the present writ petition was filed.

2. Learned counsel for the petitioner submits that the show cause notice does not contain any details of the tax proposal. She also submits that the impugned order does not contain reasons and merely sets out the confirmed tax demand. Without prejudice, on instructions, she submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.G.Nanmaran, learned Special Government Pleader, accepts notice for the respondent. He submits that proceedings were initiated against the petitioner by issuing notice in Form ASMT 10 dated 02.07.2022. He further submits that such notice indicates that the tax proposal related to discrepancies between the returns filed by the petitioner. He also submits that principles of natural justice were complied with by issuing intimation

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dated 13.08.2022, show cause notice dated 24.02.2023 and by offering a personal hearing to the petitioner.

4. The petitioner has placed on record the notice in Form ASMT 10. Such notice contains details of the discrepancies noticed upon scrutiny of the returns. As contended by learned counsel for the petitioner, the show cause notice does not contain details of the tax proposal. However, the admitted position is that the petitioner did not respond to any of the notices or intimation. Therefore, it is necessary to put the petitioner on terms.

5. For reasons aforesaid, the impugned order dated 19.08.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand as agreed to. The petitioner is permitted to submit a reply to the show cause notice by taking into account the details provided in the notice in Form ASMT 10 and the annexure thereto. Such reply shall be submitted within 15 days from the date of receipt of a copy of this order. 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 to the

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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.

02.07.2024

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

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To

Deputy Commercial Tax Officer,
Chithode, Erode, Tamil Nadu.

SENTHILKUMAR RAMAMOORTHY,J

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