IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **15.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17091 of 2024
and W.M.P.Nos.18848 & 18850 of 2024

M/s.Karthimahesh Silks,
Rep. By its Proprietor,
Sri.N.Sivan
S.No.1/2, Krishnagiri Road,
Barugur, Krishnagiri 635 104. ... Petitioner

-vs-

The Assistant Commissioner (ST),
Krishnagiri – II Assessment Circle,
Krishnagiri. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for the records of the respondent herein in GSTIN: 33AOTPS9796L1ZK/2019-2020 and quash the proceeding dated 09.08.2023 passed therein.

For Petitioner : Mr.B.Raveendran

For Respondent : Mr.V.Prasanth Kiran, GA (T)

****

ORDER

An order in original dated 09.08.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits. The petitioner asserts that the show cause notice and other communications were uploaded on the "view additional notices and orders" tab in the GST portal and not communicated to the petitioner through any other mode. Consequently, it is stated that the petitioner was unaware of proceedings and did not participate in the same.

2. Learned counsel for the petitioner submits that the confirmed tax proposal relates to the mismatch between the petitioner's GSTR 3B returns and the auto populated GSTR 2A. He further submits that such mismatch occurred on account of the supplier's failure to duly report outward supply. He also points out that such error has been rectified by the supplier subsequently. In these circumstances, he submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.V.Prasanth Kiran, learned Government Advocate, accepts notice for the respondent. He submits that principles of natural justice were complied with by issuing show cause notice dated 09.06.2023 and by offering a personal hearing on 07.07.2023.

4. On examining the impugned order, it is evident that the tax proposal was confirmed on account of non receipt of a written objection from the petitioner. By taking into account the assertion that such non participation was on account of not being aware of

proceedings and the contention of learned counsel that the supplier has subsequently rectified the relevant returns, it is just and necessary that an opportunity be provided to the petitioner, albeit by putting the petitioner on terms.

5. For reasons aforesaid, impugned order dated 09.08.2023 is set aside on condition that the petitioner remits 10% of the disputed tax demand, as agreed to, within ***fifteen days*** 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. Upon 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 ***three months*** from the date of receipt of the petitioner's reply.

6. W.P.No.17091 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.18848 and 18850 of 2024 are closed.

15.07.2024

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

To

The Assistant Commissioner (ST),
Krishnagiri – II Assessment Circle,
Krishnagiri.

SENTHILKUMAR RAMAMOORTHY,J

rna

W.P.No.17091 of 2024
and W.M.P.Nos.18848 & 18850 of 2024

15.07.2024