IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.07.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P.No.16547 of 2024 and**
**W.M.P.Nos.18143 & 18145 of 2024**

Tvl. Dhanalakshmi Sarees,
Represented by its Proprietor,
Mr. Emakalnatham Chinnabuddunaidu Srinivasan,
No 3, Chinna Bargur IDSMD Building,
Chinna Bargur, Krishnagiri,
Tamilnadu- 635104. ... Petitioner

-vs-

Deputy State Tax Officer,
Krishnagiri - II Circle,
Hosur Division, 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 relating to the impugned Order dated 14.01.2024 in FORM GST DRC- 07 bearing GSTIN. No. 33FMKPS1525K1ZR / 2021-22 issued by the Respondent along with Consequential Demand Order dated 14.01.2024 having Reference No. ZD330124067253S and quash the same, as arbitrary.

For Petitioner : Mr.A.Neeraj

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

## ORDER

An order in original dated 14.01.2024 is assailed 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 GST portal in the "View Additional Notices and Orders" tab, but not communicated to the petitioner through any other mode. On account of being unaware of proceedings, the petitioner asserts that it was not possible to participate.

2. Learned counsel for the petitioner submits that the tax proposal pertains to a mismatch between the purchase and sales turnover. If provided an opportunity, he submits that the petitioner would be in a position to explain the mismatch satisfactorily. On instructions, he 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 submits that principles of natural justice were complied with by issuing intimation dated 18.10.2023, show cause notice dated 15.11.2023 and by offering a personal hearing on 29.11.2023.

4. On examining the impugned order, it is evident that the tax proposal was confirmed because the petitioner did not reply to the show cause notice or attend the personal hearing. By taking into account the assertion that such non participation was on account of not being aware of proceedings, the interest of justice warrants that an opportunity be provided to the petitioner to contest the tax demand on merits by putting the petitioner on terms.

5. For reasons aforesaid, the impugned order dated 14.01.2024 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.

**08.07.2024**

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

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To

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

**SENTHILKUMAR RAMAMOORTHY,J**

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