IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.16641 of 2024
and W.M.P.Nos.18267 & 18269 of 2024

Tvl Sri Gurudev Textiles,
Represented by its Proprietor, Saraswathi Bai,
No.71, Shop No.31, Godown Street,
Chennai – 600 001. ... Petitioner

-vs-

1.The Deputy Commissioner (ST),
O/o. The Deputy Commissioner (ST), GST Appeal, Chennai – I,
3rd Floor, C.T.Annexe Building,
No.1, Greams Road, Chennai 600 006.

2.The State Tax Officer,
Kothawalchavadi Assessment Circle,
Office of the State Tax Officer (ST),
Chennai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in Reference No. ZD330323115796H dated 23.03.2023 and the records of the 1st respondent pertaining to the impugned order dated 25.04.2024 passed in RC.No.1440/2024 GSTN: 33AACPB4505F1ZJ quash the same and consequently direct the respondent to given an opportunity of personal hearing.

For Petitioner : Mr.P.Suresh Babu

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

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ORDER

By this writ petition, the petitioner assails both the order in original and the appellate order relating to imposition of late fee. The petitioner asserts that he was unaware of the order in original dated 23.03.2023 since the preceding show cause notice and the order were uploaded on the GST portal but not communicated to the petitioner through any other mode. Upon coming to know of such impugned order on or about 23.07.2023, it is stated that the petitioner filed a statutory appeal. Such appeal was rejected on the ground of limitation by order dated 25.04.2024. Hence, this writ petition.

2. Learned counsel for the petitioner seeks an opportunity to contest the order on merits. He submits that the petitioner was not required by statute to file an annual return. On instructions, he submits that the petitioner agrees to remit 10% of the late fee in the impugned order 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 13.02.2023 and by offering a personal hearing.

4. On perusal of the impugned order in original, it is evident that the proposal to impose late fee was confirmed because the tax

payer fail to reply to the show cause notice. By taking into account the assertion that non participation was on account of not being aware of proceedings, the interest of justice warrants re-consideration subject to the petitioner being putting on terms.

5. For reasons aforesaid, impugned order dated 23.03.2023 is set aside on condition that the petitioner remits 10% of the late fee within ***fifteen days*** from the date of receipt of a copy of this order. Within the said period the petitioner is permitted to reply to the show cause notice. Upon receipt of the petitioner's reply and on being satisfied that 10% of the late fee 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.16641 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.18267 and 18269 of 2024 are closed.

09.07.2024

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

To

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SENTHILKUMAR RAMAMOORTHY,J

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