IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 16.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17160 of 2024
and W.M.P.Nos.18942 & 18945 of 2024

M/s.M G Spinning Mills,
GSTIN: 33AAVFM4572G1ZX,
Represented by its Managing Partner
Balasubramaniyam Murugasamy,
Old No.438 and New No.441, Registered Office and Factory,
Avinashi Road, Kanjapalli Village, Annur,
Coimbatore – 641 653. ... Petitioner

-vs-

The Deputy State Tax Officer – I,
Annur Assessment Circle,
Commercial Tax Buildings,
Dr Balasundaram Road,
Coimbatore 641 018. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, call for the records pertaining to the impugned order in Form GST DRC – 07 bearing reference number ZD331223226721V/2017-18 dated 27.12.2023 issued by the respondent and quash the same.

For Petitioner : Mr.S.Durairaj

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

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ORDER

An order in original dated 27.12.2023 is assailed on the ground of breach of principles of natural justice. The petitioner asserts that he was unaware of proceedings culminating in the impugned order until the second week of May 2024 when his bank account was attached by the respondent. The present writ petition was filed in the said facts and circumstances.

2. Learned counsel for the petitioner submits that the confirmed tax proposals relate to a mismatch between the petitioner's GSTR 3B returns and the auto populated GSTR 2A as also between the petitioner's GSTR 1 and GSTR 3B returns as regards outward supply. If provided an opportunity, learned counsel submits that the petitioner would be in a position to explain the mismatch satisfactorily. On instructions, learned counsel 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 principles of natural justice were complied with by issuing show cause notice dated 02.09.2023 and by issuing three reminders.

4. On perusal of the impugned order, it is evident that the tax proposals were confirmed because the tax payer failed to file

objections along with documentary evidence upon receipt of the show cause notice. By taking into account the assertion that such non participation was on account of not being aware of proceedings, the interest of justice warrants re-consideration, albeit by putting the petitioner on terms.

5. Therefore, impugned order dated 27.12.2023 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.17160 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.18942 and 18945 of 2024 are closed.

16.07.2024

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

To

The Deputy State Tax Officer – I,
Annur Assessment Circle,
Commercial Tax Buildings,
Dr Balasundaram Road,
Coimbatore 641 018.

SENTHILKUMAR RAMAMOORTHY,J

rna

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