IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **12.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.17901 of 2024 and
W.M.P.Nos.19637 & 19638 of 2024

Tvl. Thilak Silk House Readymades,
(Represented by its Proprietor Mr. B. M. Govindaraj,
No. 5, 6, B. S. T. Market,
Bargur, Krishnagiri 635 104. ... Petitioner

-vs-

The Deputy State Tax Officer – I,
(also known as Commercial Tax Officer-I),
Krishnagiri-II. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records on the files of the Respondent herein in FORM GST DRC - 07 with Reference No. ZD3312231891931 dated 23.12.2023 along with detailed proceedings in GST 33AXIPG3946N1Z5 dated 23.12.2023 for the tax period 2019-20 and quash the same.

For Petitioner : Mr.N.Chandirasekar

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

ORDER

An order in original dated 23.12.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax proposal on merits. The petitioner asserts that GST compliances were entrusted to the accounting staff. Since the show cause notice and other communications were uploaded in the "View Additional Notices and Orders" tab on the GST portal, it is stated that the staff did not notice the same. Consequently, it is stated that the petitioner could not participate in the proceedings culminating in the impugned order.

2. Learned counsel for the petitioner submits that the tax liability arose on account of the petitioner committing an inadvertent error while filling up the GSTR 3B return in as much as the entry was erroneously made in the column relating to Reverse Charge Mechanism (RCM) instead of the column relating to all other ITC. If provided an opportunity, the petitioner

would be able to establish that only eligible Input Tax Credit (ITC) was availed of. On instructions, learned counsel 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 an intimation and a show cause notice.

4. On perusal of the impugned order, it is evident that the tax proposal was confirmed on account of the petitioner failed to reply to 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 reconsideration by putting the petitioner on terms.

5. Therefore, the impugned order dated 23.12.2023 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.

12.07.2024
(2/5)

Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No
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SENTHILKUMAR RAMAMOORTHY,J

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To

The Deputy State Tax Officer – I,
(also known as Commercial Tax Officer-I),
Krishnagiri-II.

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