IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **30.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

**W.P.No.18313 of 2024**
**and W.M.P.Nos.20101 & 20104 of 2024**

M/s.Sri Balaji Silk House
Represented by its Proprietor
Thiru. C.Kesavan, Shop no.32/15,
Salem Main Road, Kaveripattinam,
Krishnagiri – 635 104. ... Petitioner

-vs-

The Deputy State Tax Officer – I,
Krishnagiri II Circle,
Krishnagiri - 635 001. ... Respondent

**PRAYER**: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the connected records pertaining to the impugned proceedings of the Respondent herein made in reference No. GST33DJLPK7853Q1ZB dated 23/01/2024 and quash the same as illegal and consequently directing the Respondent herein to pass an order afresh after considering our representation before the Respondent herein, or passing any other order.

For Petitioner : Mr.Manoharan Sundaram

For Respondent : Mr.T.N.C.Kaushik, AGP (T)

**ORDER**

An order in original dated 23.01.2024 is assailed in this writ petition on the ground that the petitioner was not provided 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 and not communicated to the petitioner through any other mode. As a result of not being aware of proceedings, it is stated that the petitioner could not participate and contest the tax demand on merits.

2. Learned counsel for the petitioner submits that the confirmed tax

proposal pertains to alleged sales suppression. If provided an opportunity, he submits that the petitioner would be in a position to explain the reasons for the disparity between the purchase and sales turnover. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

3. Mr.T.N.C.Kaushik, learned Additional Government Pleader, 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.

4. On perusal of the impugned order, it is evident that the tax proposal was confirmed by proceeding on the assumption that the sales turnover was 110% of the purchase turnover. Such tax proposal was confirmed on account of the petitioner's failure to reply to the show cause notice. Upon taking into account the assertion that non participation in proceedings was on account of not being aware of the same, the interest of justice warrants reconsideration by putting the petitioner on terms.

5. For reasons aforesaid, the impugned order dated 23.01.2024 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.

**30.07.2024**
(1/2)

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

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To

The Deputy State Tax Officer – I,
Krishnagiri II Circle,
Krishnagiri - 635 001.

**SENTHILKUMAR RAMAMOORTHY,J**

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