IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **31.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.18583 of 2024
and W.M.P.Nos.20373 & 20375 of 2024

M/s.Sri Balaji Textiles & Readymades
Represented by its Proprietor,
Thiru.M.V.Govindaraj,
No.117/3, 1st Floor,
C.S.G.Tower, B.T.Market Road,
Bargur, 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, pleased 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. GST33BNEPG1974MIZU dated 08.11.2023 and quash the same as illegal and consequently directing the respondent herein pass an order afresh after affording the opportunity of the personal hearing to the petitioner herein.

For Petitioner : Mr.Manoharan Sundaram

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

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ORDER

An order dated 08.11.2023 is challenged in this writ petition on the ground of breach of principles of natural justice. The petitioner asserts that the show cause notice and other communications were not served on the petitioner physically and were merely uploaded on the GST portal. Consequently, it is stated that the petitioner came to know about the impugned order only after a recovery notice was issued to the bank.

2. Learned counsel for the petitioner submits that the tax liability arose due to an inadvertent error committed by the petitioner while filling up the GSTR 3B returns insofar as the entry was made in the column relating to RCM instead of the column relating to "all other ITC". 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 intimation dated 21.08.2023 and show cause notice dated 12.10.2023.

4. On perusal of the impugned order, it is evident that the tax proposal was confirmed because the tax payer failed to file written objections or attend the personal hearing within the stipulated time.

By taking into account the assertion in the affidavit that the tax liability arose entirely on account of an inadvertent error and that non participation was on account of not being aware of proceedings, it is just and appropriate that the matter is remanded subject to the petitioner by putting on terms.

5. Therefore, impugned order dated 08.11.2023 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 of the petitioner's reply 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. In view of the assessment order being set aside, the bank attachment is raised.

6. W.P.No.18583 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.20373 and 20375 of 2024 are closed.

31.07.2024

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

To

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

SENTHILKUMAR RAMAMOORTHY,J

rna

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