IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **30.07.2024**

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THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.18588 of 2024
and W.M.P.Nos.20378 & 20379 of 2024

M/s.Sri Siva Textiles,
Represented by its Proprietor,
Thiru B.C.Chennaiyan,
Shop No.357, C.B.Road,
Bargur,
Krishnagiri District-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.GST33AZUPC2325D1ZR dated 26/10/2023 and quash the same as illegal and consequently directing the Respondent herein pass an order afresh after considering our representation before the Respondent herein.

For Petitioner : Mr.Manoharan Sundaram

For Respondent : Mr.T.N.C.Kaushik
Addl. Govt. Pleader (Taxes)

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ORDER

An order in original dated 26.10.2023 is challenged on the ground that the petitioner did not have a reasonable opportunity to contest the tax demand on merits.

2. The petitioner asserts that he was unaware of proceedings culminating in the impugned order because the show cause notice and other communications were merely uploaded on the common portal and not communicated to the petitioner through any other mode. It is also stated that the petitioner became aware of these proceedings only upon receipt of notice for recovery by the petitioner's bank.

3. Learned counsel for the petitioner submits that the confirmed tax proposal relates to alleged sales suppression and that such proposal was confirmed by assuming that the sales turnover was

110% of the purchase turnover. He seeks another opportunity to contest the matter on merits. On instructions, learned counsel submits that the petitioner agrees to remit 10% of the disputed tax demand as a condition for remand.

4. 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 13.09.2023, show cause notice dated 26.09.2023 and by offering a personal hearing.

5. On examining the impugned order, it is evident that it was concluded that the petitioner had suppressed sales turnover in view of the disparity between the purchase turnover and the sales turnover, as reflected in the petitioner's GSTR 3B returns. By taking into account the manner and the basis on which the tax proposal was confirmed and the assertion that the petitioner could not participate in proceedings on account of being unaware of the proceedings, it is just and appropriate that the matter be remanded for reconsideration

on terms.

6. Therefore, the impugned order dated 26.10.2023 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 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.

7. W.P.No.18588 of 2024 is disposed of on the above terms. No costs. Consequently, W.M.P.Nos.20193 & 20194 of 2024 are closed.

30.07.2024

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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