BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.02.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE B.PUGALENDHI**

W.P.(MD)No.1465 of 2024
and
W.M.P.(MD)No.1503 and 1504 of 2024

Tvl.KT Spintex,
Rep.by its Managing Partner Mr.T.Prathip,
31/22A, Ashok Nagar 1st Street,
Dindigul-624 001. ...Petitioner

/Vs./

The Assistant Commissioner (States Tax), (FAC),
(Review, Appeal and Legacy),
Dindigul-1. ...Respondent

**PRAYER:** Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings issued by the respondent in Roc No.4954/2023/A6 dated 28.07.2023 and quash the same as illegal and in gross violation of the principles of natural justice and further direct the respondent to revoke the blocked ITC of Rs.2,35,804/- in the light of the representation dated 02.08.2023 sent by the petitioner.

For Petitioner : Mr.R.D.Ganesan

For Respondent : Mr.A.Baskaran
Additional Government Pleader

**ORDER**

The petitioner has filed this writ petition as against the order dated 28.07.2023 passed by the Assistant Commissioner, Sales Tax, Dindigul under Section 86(A) of the Tamil Nadu Goods and Service Tax Rules 2017 and Central Goods and Service Tax Rules 2017. By the order impugned in this writ petition, the petitioner's input tax credit was blocked in his electronic credit ledger on the ground that one of the supplier, namely Tvl.Vyshnavi Cotton Corporation is not an existing company.

2.The learned counsel for the petitioner submits that there is no provision available under the Act enabling the respondent to block ITC. He further submits that the respondent has blocked the eligible ITC without conducting any enquiry as provided under the Rules in force. The learned counsel relied upon Section 16 of the GST Act and Rule 86 -A of the GST Rules, which stipulate that before blocking the legal entitlement of ITC, an opportunity of hearing ought to have been provided.

3.The learned counsel has also relied upon the circular No.3 of 2020 dated 23.03.2020 and submits that without providing an opportunity of hearing to the petitioner, the order impugned in this writ petition has been passed blocking ITC. In circular No.3/2020 dated 23.03.2020, it has been stated as follows:

> *"8.The action by the authorized officer to block/restrict fraudulent credits should be informed by the authorized officer to the jurisdictional Territorial Joint Commissioner as well to the Proper Officer (Assessment Officer) of the taxpayer's jurisdiction and to the registered taxable person to whom such credits pertain to as soon as possible through the intra-net or through official email. A hard copy of the same shall also be sent by Registered Post with Acknowledgement due to the taxable person, marking a copy of the Proper Officer (Assessment Officer)."*

4.The learned Additional Government Pleader for the respondent submits that the order impugned in this writ petition itself is an intimation calling upon the petitioner to offer his explanation within a period of fifteen days. The petitioner has also furnished his explanation along with all the necessary records. The details submitted by the petitioner along with his explanation have been sent to the jurisdictional authority for taking a decision. This fact was also intimated to the petitioner on 10.08.2023. Now the issue is pending before the jurisdictional authority for passing final orders.

5.This Court had heard the submissions made on either side and perused the materials available on record.

6.The order impugned in this writ petition is a show cause notice calling upon the petitioner to offer his explanation within a period of fifteen days from the date of receipt of a copy of the impugned order. On receiving the notice, the petitioner ultimately had offered his explanation for the defects, which are pointed out by the respondent. It is for the jurisdictional authority, before whom the issue is now pending, to decide the issue as per Section 86(A) of the Rules.

7.In view of the above facts and circumstances, this writ petition is disposed of with a direction to the Jurisdictional Commissioner/competent authority to take a call on the petitioner's case by considering the explanation filed by the petitioner and after providing an opportunity of hearing to the petitioner within a period of four weeks form the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

**06.02.2024**

Index : Yes / No
Internet : Yes / No
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To

The Assistant Commissioner (States Tax), (FAC),
(Review, Appeal and Legacy),
Dindigul-1.

**B.PUGALENDHI,J.**

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W.P(MD)No.1465 of 2024

06.02.2024