BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.04.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.(MD) Nos.9971 & 9976 of 2024
and
W.M.P.(MD) Nos.9016, 9017, 9020 & 9023 of 2024

M/s.Vikas Silks
D.No.1/8A, Puthur Road
Nallamangalam, Pottalpatti post
Rajapalayam Taluk
Virudhunagar
Tamil Nadu.
Represented by its Proprietor
Rajasekar ... Petitioner in both W.Ps

/vs./

The Assistant Commissioner [ST]
Rajapalayam Assessment Circle I
Commercial Tax Department
Rajapalayam. ... Respondent in both W.Ps

PRAYER in both W.Ps: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records connected with the case ID No.GSTIN:33BDZPR3305N1ZW/2019-2020 and No. GSTIN: 33BDZPR3305N1ZW/2020-2021, respectively, dated 23.02.2024 passed by the respondent herein in exercise of his power conferred under Sec.161 of the GST

Act in respect of order Case ID No.GSTIN/33BDZPR3305N1ZW/2019-2020 and GSTIN:33BDZPR3305N1ZW/2020-2021, respectively, dated 26.07.2023 and to quash the same.

For Petitioner	:	Mr.N.Viswanathan
For Respondent	:	Mr.R.Suresh Kumar Additional Government Pleader

COMMON ORDER

By this common order, both the Writ petitions have been disposed of.

2. In these Writ Petitions, the petitioner has challenged the impugned orders dated 26.07.2023 passed by the respondent and the subsequent order dated 23.02.2024 rejecting the request of the petitioner for rectification of the orders dated 26.07.2023 under Section 161 of TNGST Act, 2017.

3. The facts on record of the petitioner are that the petitioner's place of business was inspected and thereafter, notice was issued in GST DRC01A on 15.11.2022, to which, the petitioner has already replied on 28.12.2022. Thereafter, the petitioner was issued the notice in GST DRC 01 on 07.03.2023. The petitioner

was, thereafter, issued with personal hearing notices on 24.03.2023 and 05.05.2023. The dispute relates to non-production of original invoices. The petitioner in his reply dated 28.12.2022 sought for time to produce the originals at the convenience of the respondent. The petitioner, however, failed to appear as per the remainders dated 24.03.2023 and 05.05.2023. Thus, the adverse order was passed on 26.07.2022.

4. The learned counsel for the petitioner would submit that the petitioner is in possession of invoices for the respective assessment years i.e, AY 2019-20 and 2020-21. Further, the petitioner would submit that if the petitioner is given one more opportunity, the petitioner will produce the same and substantiate the case.

5. Per contra, the learned counsel for the respondent would submit that these Writ Petitions are devoid of merits. It is submitted that the petitioner has an alternative remedy under Section 107 of TNGST Act, 2017 and therefore, the Writ Petitions are liable to be dismissed. That apart, it is submitted that the petitioner neither had invoices at the time of inspection nor at the time of filing of reply on 28.12.2022. That apart, it is submitted that nothing precluded the petitioner from

attending the personal hearing, pursuant to the hearing fixed and pursuant to the notices issued on 24.03.2023 and 05.05.2023.

6. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent.

7. The petitioner is directed to deposit 10% of the disputed tax, as condition for re-hearing the petitioner, since the petitioner has not co-operated with the respondent by filing the invoices in time. Subject to the petitioner depositing 10% of the disputed tax through Electronic Cash Register with the respondent, the respondent is directed to hear the case afresh and pass order on merits in accordance with law. On such deposit of the amount, the impugned order shall stand quashed.

Accordingly, these Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No **22.04.2024**
Internet : Yes / No
apd

To

The Assistant Commissioner [ST]
Rajapalayam I Asst. Circle
Commercial Tax Department
Sivakasi, Tamil Nadu – 626 117.

C.SARAVANAN, J.

apd

W.P.(MD) Nos.9971 & 9976 of 2024

22.04.2024