BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2024

CORAM

**THE HON'BLE MR.JUSTICE C.SARAVANAN**

**W.P.(MD)No.17036 of 2024**
**and**
**W.M.P.(MD)Nos.14663 and 14664 of 2024**

M/s.RSM Luxmi Silks,
Represented by its Proprietor, K.Ramalingam,
No.B-16, K.T. Complex,
Simco Meter Road,
Krishnamoorthynagar,
Trichy - 620 021. ... Petitioner

Vs.

Deputy State Tax Officer,
Srirangam Assessment Circle,
Trichy. ... Respondent

**Prayer**:- Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 26.12.2023 in Form GST DRC-07 bearing GSTIN - 33BBFPR9759E1Z9 pertaining to FY.2017-18 issued by the respondent as arbitrary and illegal, quash the same and further direct the respondent to redo the adjudication in accordance with law after granting opportunity of personal hearing to the petitioner.

For Petitioner : Mr.R.Ilayaraja

For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader

**ORDER**

The petitioner is before this Court against the impugned order in Form – GST DRC – 07, dated 26.12.2023 passed for the Assessment Year 2017-2018.

**2**. By the impugned order, the demand that was proposed in the notices in Form GST DRC – 01A and Form - DRC - 01, have been confirmed, as the petitioner has failed to respond to the same in time.

**3**. The case of the petitioner is that the petitioner is a small time dealer, engaged in sale of Textile Products and that the petitioner has failed to notice the notices issued in Form - DRC - 01A dated 07.09.2023 and Form - DRC - 01 dated 12.10.2023, which had been uploaded in the GST Common Portal.

**4**. It is submitted that the petitioner was also unaware of the impugned order that came to be passed on 26.12.2023 in Form - GST DRC-07. It is submitted that the petitioner came to know about the same when the Department sought to recover the amount.

**5**. It is further submitted that although the petitioner may have an appeal remedy, it is time barred at this distant point of time in view of the decision of the Hon'ble Supreme Court in **M/s.Singh Enterprises** vs. **Commissioner of Central Excise, Jamshedpur and others**, (2008) 3 SCC 70.

**6**. That apart, it is submitted that the petitioner has also not replied to the notices and that the petitioner has fairly a good case to explain, as the dispute has arisen purely on account of discrepancy in between the returns filed by petitioner in GSTR – 3B and GSTR – 2A.

**7**. Although the learned Additional Government Pleader for the respondent submits that the Writ Petition is devoid of merits in the light of the decision of the Hon'ble Supreme Court in **Assistant Commissioner (CT), LTU, Kakinada and others** vs. **Glaxo Smith Kline Consumer Health Care Limited**, 2020 SCC OnLine SC 44, I am of the view that the petitioner can be given a partial reprieve in this Writ Petition by quashing the impugned order on terms.

**8**. The petitioner shall deposit 25% of the disputed tax to the credit of the respondent from the Electronic Cash Register, within a period of 30 days from the date of receipt of a copy of this order. The impugned order which stands quashed in this order shall be treated as Addendum to the show cause notices already issued to the petitioner. The petitioner shall file a consolidated reply within a period of 30 days from today. Subject to the petitioner complying with the above requirements along with reply within a period of 30 days, the respondent shall proceed to pass fresh orders on merits and in accordance with law after hearing the petitioner. It is expected that fresh orders shall be passed within a period of two months from today. If the petitioner fails to either deposit or file a consolidated reply as mentioned above, this order shall be deemed to be withdrawn *sine die*, and this Writ Petition shall be deemed to be dismissed today.

**9**. In fine, this Writ Petition stands disposed of with the above observations. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes/ No **24.07.2024**
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order

To

The Deputy State Tax Officer,
Srirangam Assessment Circle,
Trichy.

**C.SARAVANAN, J.**

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24.07.2024