IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.2359 of 2025
and
WMP.Nos.2679 & 2681 of 2025

Tvl.Senthil Nathan Spinning Mills Pvt.Ltd.,
Rep.by its Director K.Dhanasekar
No.1, Ramalingam Chetty Street,
Dharmapuri, Tamil Nadu – 636 807. ... Petitioner

Vs.

The State Tax Officer,
Inspection Cell-3,
Hosur – 635 109. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for respondent order dated 23.08.2024 passed in Reference No.33AADCS0157N1ZB/2022-23 and quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr.TNC Kavshik
Additional Government Pleader

ORDER

The present writ petition is filed challenging the impugned order passed by the respondent dated 23.08.2024 relating to the assessment year 2022-23.

2. The petitioner is engaged in the business of Manufacturing Cotton Products and is registered under the TNGST/CGST Act 2017. During the relevant period, the petitioner filed its returns and paid the appropriate taxes. However, during the inspection of the petitioner's place of business in terms of Section 67 of the Act, the following defects were noticed:

i) Cancellation of E way bills towards Inward/Outward activities

ii) Non supplies of E way bills

iii) ITC reversal of Wind Mill Maintenance

iv) Non produce of Bank receipts.

3.Pursuant thereto, a notice in DRC 01 dated 05.07.2024 was issued. The petitioner submitted its reply on 04.08.2024 in respect of the defects other than non production of bank receipts. It is submitted that if they are provided with one more opportunity, they will be in a position to produce the bank receipts and other relevant documents.

4. The learned counsel for the petitioner would place reliance upon the recent judgment of this Court in the case of **Sree Manoj International Vs. Deputy State Tax Officer in W.P.No.10977 of 2024 dated 25.04.2024**, to

submit that this court has remanded the matter back in similar circumstances subject to payment of 10% of the disputed taxes.

5. It was further submitted that the petitioner is ready and willing to pay 10% of the disputed tax and that they may be granted one final opportunity before the adjudicating authority to put forth their objections to the proposal, to which the learned Additional Government Pleader appearing for the respondent does not have any serious objection.

6. By consent of both parties, the writ petition stands disposed of on the following terms:

a) The impugned order dated 23.08.2024 is set aside.

b) The petitioner shall deposit 10% of the disputed taxes as admitted by the learned counsel for the petitioner and the respondent, within a period of four weeks from the date of receipt of a copy of this order.

c) If any amount has been recovered or paid out of the disputed taxes, including by way of pre-deposit in appeal, the same would be reduced/adjusted, from/towards the 10% of disputed taxes directed to be paid. The assessing authority shall then intimate the balance amount out of 10 % of disputed taxes to be paid, if any, within a period of one week from the date of receipt of a copy of this order. The petitioner shall deposit such remaining sum within a period of three weeks from such intimation.

d) The entire exercise of verification of payment, if any, intimation of the balance sums, if any, to be paid for compliance with the direction of payment of 10% of the disputed taxes, after deducting the sums already paid and payment by the petitioner of the balance amount, if any, on intimation in compliance with the above direction shall be completed within a period of four weeks from the date of receipt of copy of this order.

e) Failure to comply with the above condition viz., payment of 10% of disputed taxes within the stipulated period i.e., four weeks from the date of receipt of a copy of this order shall result in restoration of the impugned order.

f) If there is any recovery by way of attachment of Bank account or garnishee proceedings, the same shall be lifted /withdrawn on complying with the above condition viz., payment of 10 % of the disputed taxes.

g) On complying with the above condition, the impugned order of assessment shall be treated as show cause notice and the petitioner shall submit its objections within a period of four (4) weeks from the date of receipt of a copy of this order along with supporting documents/material. If any such objections are filed, the same shall be considered by the respondent and orders shall be passed in accordance with law after affording a reasonable opportunity of hearing to the petitioner. It is made clear that if the above conditions viz., 10% of disputed taxes is not complied or objections are not filed within the stipulated period, four weeks respectively from the date of receipt of a copy of this order, the impugned order of assessment shall stand restored.

7. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/No
sms

30.01.2025

To:
The State Tax Officer,
Inspection Cell-3,
Hosur – 635 109.

MOHAMMED SHAFFIQ, J.

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