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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.03.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.Nos.10642 & 10644 of 2025
and
W.M.P.Nos.11984, 11985, 11988 & 11989 of 2025

M/s.C.M.K. Textiles
rep. by its Proprietor
Chinniagounder Muthukumar ...Petitioner in both W.Ps.

Vs.

The Assistant Commissioner
Tiruppur Central II Circle
Tiruppur II, Tiruppur. ...Respondent in both W.Ps.

Prayer in W.P.No.10642 of 2025 :-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records from the file of the respondent in GSTIN: 33AFCPM8733K1Z9/2019-20 dated 21.08.2024, and consequential order dated 26.08.2024, order under Ref.No.ZD330824228251N under Section 73 of the Act and summary of the order under Ref.No.ZD330824228251N in Form GST – DRC-07 dated 26.08.2024 and to quash the same as being without jurisdiction.

Prayer in W.P.No.10644 of 2025 :-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records from the file of the respondent in GSTIN: 33AFCPM8733K1Z9/2019-20 dated 31.08.2024, and consequential order dated 31.08.2024, order under Ref.No.ZD330824307651J under Section 73

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of the Act and summary of the order under Ref.No. ZD330824307651J in Form GST – DRC-07 dated 31.08.2024 and to quash the same as being without jurisdiction.

Appearance of the counsel in both W.Ps

For Petitioner	:	Mr.T.Ramesh
For Respondent	:	Mr.T.N.C.Kaushik Additional Government Pleader (T)

COMMON ORDER

Heard Mr.T.Ramesh learned counsel appearing for the petitioner and Mr.T.N.C.Kaushik, learned Additional Government Pleader (T) who takes notice on behalf of the respondent. With consent, the main Writ Petitions are taken up for final disposal at the stage of admission itself.

2. The challenge in Writ Petition No.10642 of 2025 is to the order passed by the respondent dated 21.08.2024 and consequential order dated 26.08.2024 under Section 73 of the Act and summary of the order under in Form GST – DRC-07 dated 26.08.2024 and to quash the same. So far as W.P.No.10644 of 2025 is concerned, the challenge is to the orders passed by the respondent dated 31.08.2024 and consequential order dated 31.08.2024, order under Ref.No.ZD330824307651J under Section 73 of the

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Act and summary of the order in Form GST – DRC-07 dated 31.08.2024 and to quash the same as being without jurisdiction.

3. The learned counsel for the petitioner would submit that all the show cause notice/personal hearing notice, which culminated in the impugned orders, were merely uploaded in the GST Portal, hence, the same were unnoticed by the petitioner, therefore, the petitioner could not file reply nor appear for the personal hearing, however, without hearing the petitioner, the impugned orders came to be passed.

3.1 Therefore, the learned counsel would submit that the impugned orders suffer from violation of principles of natural justice and are liable to be aside, as the petitioner has not been heard before passing the impugned order. However, it is stated that the petitioner is also ready and willing to deposit 25% of the disputed tax in any one of the Writ Petition, in the event, this Court is inclined to set aside the impugned orders and remands the matters back to the Authority for fresh consideration, and thus, prays for appropriate orders.

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4. The learned Additional Government Pleader (T) for the respondent fairly submitted that since the petitioner has voluntarily come forward to deposit 25% of the disputed tax, the prayer sought for by the petitioner may be considered.

5. Taking into consideration of the submissions made on either side and perusal of record, there is no dispute on the aspect that notices, which culminated in the impugned orders were merely uploaded in the GST portal, which were unnoticed by the petitioner as the petitioner had no occasion to view the Portal then and there, hence, the petitioner could not file reply or appear for the personal hearing. However, the respondent passed the impugned orders without even affording any opportunity of hearing to the petitioner, which are nothing but ex parte orders, as the same suffer from violation of principles of natural justice.

6. Thus, once the orders are passed in violation of principles of natural justice, this Court cannot impose any condition requiring the petitioner to make any deposit, however, since the petitioner, themselves,

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have voluntarily come forward to deposit 25% of the disputed tax in one of the Writ Petitions, to which, the learned learned Additional Government Pleader (T) is also agreable, this Court is inclined to pass/issue the following orders/directions:-

i) The orders passed by the respondent, which are impugned in W.P.No.10642 of 2025, viz., orders dated 21.08.2024 and consequential order dated 26.08.2024 under Section 73 of the Act and summary of the order under in Form GST – DRC-07 dated 26.08.2024 and the orders impugned in W.P.No.10644 of 2025, viz., the orders dated 31.08.2024 and consequential order dated 31.08.2024 under Section 73 of the Act and summary of the order in Form GST – DRC-07 dated 31.08.2024 are set aside.

ii) Consequently, the matters are remanded to the respondent for fresh consideration.

iii) The petitioner is granted liberty to deposit 25% of the disputed tax in respect of W.P.No.10642 of 2025, which the petitioner themselves have voluntarily came forward to make such payment within a period of two weeks from the date of receipt of a copy of this order.

iv) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

and

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v) Thereupon, the respondent is directed to consider the reply and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

7. In the result, the Writ Petitions are allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

24.03.2025

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Index : yes/no
Neutral Citation : yes/no

To

The Assistant Commissioner (ST)
Tiruppur Central II Circle
Tiruppur II, Tiruppur.

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Krishnan Ramasamy,J.,

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