IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.16235 of 2025
and
W.M.P.Nos.18358 and 18359 of 2025

M/s.Indian Textiles and Readymade,
Rep. by its Proprietor-Shahul Hameed Santhana
Meera
110, Raja Street, Walajabad,
Kanchipuram-631605
GSTIN:33EMFPS8928J1ZE ...Petitioner

Vs.

The Assistant Commissioner (ST)(FAC),
Office of the Commercial Tax Officer,
Kanchipuram Rural Assessment Circle,
Kanchipuram District. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the impugned proceedings of the Respondent herein in GSTIN:33EMFPS8928J1ZE/2018-19 dated 23.04.2024 accompanied by its consequential summary order in Form GST DRC-07 vide Reference

No.ZD3304242255340 dated 27.04.2024 and the Rejection Order in Reference No.ZD3302251136111 dated 12.02.2025 for the Tax Period 2018-19 and quash the same.

For Petitioner : Mr.S.Rajasekar

For Respondent : Ms.Amirthapoonkodi Dinakaran
Government Advocate (Taxes)

ORDER

Ms.Amirthapoonkodi Dinakaran, learned Government Advocate (Taxes), takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order dated 23.04.2024 and the consequential rejection order dated 12.02.2025 passed by the respondent for the assessment year 2018-19 and to quash the same.

3. The learned counsel for the petitioner would submit that the respondent has issued a show cause notice on 29.01.2024 to the petitioner, for which the petitioner submitted its reply on 27.02.2024. But, the respondent without considering the same has passed the present impugned order demanding tax along with interest and penalty for the Assessment Year 2018-2019. Being aggrieved over the impugned order, the petitioner filed the rectification petition before the respondent which came to be rejected by the respondent. Challenging the assessment order as well as the rejection order, the petitioner has filed this writ petition.

4. Further, the learned counsel would submit that the impugned orders suffers from violation of principles of natural justice and is liable to be aside, as the petitioner has not been heard before passing the impugned order.

5. The learned Additional Government Pleader (Taxes) for the respondent submitted that this writ petition is not maintainable for the reason that if the petitioner is aggrieved by the impugned assessment order, they ought to have filed an Appeal before the appellate authority, but instead of doing so, the petitioner has filed the rectification petition and subsequently after the rejection of the same has filed this Writ Petition. She therefore prays for a dismissal of this writ petition.

6. In reply, the learned counsel for the petitioner would submit that the petitioner may be permitted to file an appeal before the appellate authority and the appellate authority may be directed to take the appeal on record,without insisting upon the period of limitation. Further, he would submit that the petitioner is ready to deposit 25% of disputed tax (15% over and above the statutory deposit of 10%) before the appellate authority at the time of filing appeal.

7. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, this Court is of the view that though an efficacious remedy is available to the petitioner in filing the Appeal challenging the assessment order, the petitioner has filed the rectification petition instead of filing an appeal. Therefore, this Court is not inclined to entertain this Writ Petition.

8. In view of the same, this writ petition is dismissed granting liberty to the petitioner to file an appeal before the appellate authority subject to deposit of 25% of disputed tax (15% over and above the statutory deposit of 10%) and on such appeal being filed along with 25% of the disputed tax, as volunteered by the petitioner, the appellate authority shall take the appeal on file, subject to pre deposit of 25% as ordered above without insisting upon the period of limitation and pass appropriate orders, on merits and in accordance with law, as expeditiously as possible. No costs. Consequently, connected Miscellaneous Petitions are closed.

02.06.2025

arr
Index : yes/no
Neutral Citation : yes/no

To

The Assistant Commissioner (ST)(FAC),
Office of the Commercial Tax Officer,
Kanchipuram Rural Assessment Circle,
Kanchipuram District.

Krishnan Ramasamy,J.,

arr

W.P.No.16235 of 2025

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