BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.06.2025**

CORAM:

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

W.P.(MD) No.15014 of 2025
and
W.M.P.(MD) Nos.11247 and 11249 of 2025

M/S.Sri Ganapathy Textiles,
sole proprietorship
represented by its Proprietor,
Nachimuthu Krishnamoorthy ... Petitioner

/vs./

Deputy State Tax Officer-2,
Kodumdi Assessment Circle,
Commercial Taxes Building,
North Pradhakshanam Road,
Karur – 639 001. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the Impugned Order -in-Original with summary order in FORM GST DRC - 07 bearing Reference No. ZD331023060399K dated 11.10.2023 issued by the respondent and quash the same and pass a direction to remand back for re-adjudication to the original stage and consequentially issue a direction that any amount paid by the petitioner pursuant to the direction of this Court may be appropriated with the pre-deposit amount payable under Section 107 of the CGST/TNGST Act, 2017 or be allowed to file a refund application under section 54 of CGST/TNGST Act, 2017 as the case may be.

For Petitioner : Mr.M.P.Yuvaraj

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

ORDER

Mr.R.Suresh Kumar, learned Additional Government Pleader, takes notice for the respondent.

2.The Writ Petition has been filed challenging the order passed by the respondent bearing Reference No.ZD331023060399K, dated 11.10.2023.

3.The petitioner was a registered dealer under the provisions of the respective GST enactments. It is the case of the petitioner that their registration was cancelled on 30.06.2021. After the registration was cancelled, a show cause notice was issued on 03.07.2023, which went unnoticed, as the petitioner had ceased to carry on the business.

4.It is the case of the petitioner that they were also unaware of the fact that the impugned order had been passed on 11.10.2023 for the tax period between July, 2017 and March, 2018.

5.The petitioner submits that since the impugned order has been passed without proper notice to them, they may be given an opportunity to represent the case afresh, since there was violation of principles of natural justice.

6.The learned Additional Government Pleader for the respondent, on the other hand, would submit that there is no merits in the present writ petition and that the present writ petition is liable to be dismissed, in the light of the decision of the Hon'ble Supreme Court in Civil Appeal No.2413 of 2020 ***(Assistant Commissioner (CT), LTU, Kakinada and others Vs. M/S.Glaxo Smith Kline Consumer, Health Care Limited)***, dated 06.05.2020.

7.Having considered the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent, I am inclined to come to the rescue of the petitioner subject to the petitioner depositing 25% of the disputed tax in cash with the respondent within a period of 30 days from the date of receipt of a copy of this order. Subject to the above compliance, the impugned assessment order, dated 11.10.2023, shall stand quashed.

8.The impugned order, which is the subject matter of the present writ petition, shall be treated as corrigendum to the show cause notice, dated 03.07.2023. The petitioner shall file a reply to the same within a period of 30 days from the date of receipt of a copy of this order. The respondent shall endeavour to pass final orders on merits and in accordance with law preferably within a period of two weeks thereafter.

9.It is made clear that in case, the demand proposed in the show cause notice as confirmed by the impugned order, dated 11.10.2023, which stands quashed, is dropped, the amount to be deposited by the petitioner shall be refunded back to the petitioner.

10.With the aforesaid directions, the Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

03.06.2025

Index : Yes / No
Internet : Yes / No
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To

Deputy State Tax Officer-2,
Kodumdi Assessment Circle,
Commercial Taxes Building,
North Pradhakshanam Road,
Karur – 639 001.

C.SARAVANAN, J.

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W.P.(MD) No.15014 of 2025

03.06.2025