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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 16-09-2026

Pronounced on : 28-10-2026

CORAM

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

Case QR

WP Nos.30908, 31022, 31026 & 31597 of 2024 and

WMP Nos. 33490, 33645, 33635 & 34347 of 2024

CNR:{HCMA011899812024}

M/s.Aruna Mills
Represented by its Managing Partner
Mr.E.Rubesh Kumar
46B, Kovai Road Velagoundapalayam,
Vellakovil, Kangayam (T.K)
Tiruppur- 638 111.

..Petitioners in all cases

Vs

1.The State Tax Officer
Inspection Group-1,
Office of the Joint Commissioner (ST)
Tirupur Intelligence Division,
5/147, AEPC Building,
Kaikattipudur, Tirupur Main Road, Avinashi-641
654.

2.The State Tax Officer (Intelligence)
Inspection Group-V
Office of the Joint Commissioner (ST)
Tirupur Intelligence Division
5/147, AEPC Building, KaikattiPudur
Tiruppur Main Road Avinashi- 641 654

..Respondents in all cases

Prayer in W.P.No.30908 of 2024: Writ Petition filed under Section 226 of the Constitution of India, seeking to issue a Writ of Certiorarified Mandamus, calling for the records leading to the issuance of order of acceptance bearing

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reference No.33ABSFA3372JIZ7/ 2022-23 dated 27.03.2024 passed by the First Respondent herein and quash the same, and direct the Respondents herein to refund an amount of Rs.3,84,871/- (IGST-Rs.4,301/- Plus CGST - 1,90,285 + SGST - 1,90,285) recovered during surprise inspection.

Prayer in W.P.No.31022 of 2024: Writ Petition filed under Section 226 of the Constitution of India, seeking to issue a Writ of Certiorarified Mandamus, calling for the records leading to the issuance of order of acceptance bearing reference no.33ABSFA3372JLZ7 l/2020-21 dated 27.03.2024 passed by the First Respondent herein and quash the same, and direct the Respondents herein to refund an amount of Rs.2,20,09,106/- (IGST - Rs.9,90,000 + CGST - Rs.1,05,09,553 + SGST Rs.1,05,09,553) recovered during surprise inspection.

Prayer in W.P.No.31026 of 2024: Writ Petition filed under Section 226 of the Constitution of India, seeking to issue a Writ of Certiorarified Mandamus, calling for the records leading to the issuance of order of acceptance bearing reference no.33ABSFA3372JlZ7 l/2021-22 dated 27.03.2024 passed by the First Respondent herein and quash the same, and direct the Respondents herein to refund an amount of Rs.2,59,151/- (IGST - Rs.42,323 + CGST - 1,08,414 + SGST- 1,08,414) recovered during surprise inspection.

Prayer in W.P.No.31597 of 2024: Writ Petition filed under Section 226 of the Constitution of India, seeking to issue a Writ of Certiorarified Mandamus, calling for the records leading to the issuance of order of acceptance bearing reference no.33ABSFA3372J1Z7 /2023-24 dated 27.03.2024 passed by the First Respondent herein and quash the same, and direct the Respondents herein to refund an amount of Rs.1,40,687 /- (IGST .Rs.36,001 + CGST - 52,343 + SGST - 52,343) recovered during surprise inspection.

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In all W.Ps.
For Petitioner: Ms.S.P.Sri Harini
For Respondents: Mr.R.Sethu Prabakaran,
Government Advocate (Taxes)

COMMON ORDER

These Writ Petitions have been filed to quash the orders dated 27.03.2024 in reference No.33ABSFA3372JIZ7/2020-21, 33ABSFA3372JIZ7/2021-22, 33ABSFA3372JI Z7 2022-23 and 33ABSFA3372JIZ7/2023-24 passed by the first Respondent and seeking a direction to the Respondents to refund the amounts remitted under IGST, CGST and SGST during surprise inspection.

2. The case of the petitioner is as follows:

The petitioner is a proprietary concern represented by its Managing Partner engaged in the manufacture and supply of Cotton yarn and Poly-cotton yarn and synthetic fibres and is registered under GSTIN:33ABSFA3372J1Z7. The petitioner was originally constituted as a proprietorship concern and thereafter it was reconstituted as a partnership firm comprising the Managing partner and his grand father, one Sadhasivam, by way of a partnership deed, dated 28.08.2020. On the retirement of the said Sadhasivam from the partnership firm, Mrs.E.Aruna, the mother of the Managing Partner was included as a partner vide Partnership Deed dated 08.11.2021. Thereafter, the petitioner firm continued its business under the name and style “Aruna Mills” at

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the same address of which it had originally been registered. The assets and liabilities in the propitiatory ship concern were transferred to the petitioner Firm through book adjustments and the loans obtained in the name of proprietorship concern were also transferred to the petitioner firm. The transfer of assets and liabilities was carried out in accordance with law. Pursuant to the transfer, the petitioner has been duly filing GST and Income Tax returns under the newly registered numbers. The sole proprietor transferred the assets to the petitioner firm by duly raising a tax invoice in accordance with the GST enactments and the same was also declared in the GSTR-3B returns filed for the months of February and march 2021 and taxes were paid. The entire assets were reflected in GSTR-2A and the returns were also filed by the petitioner.

3. In this circumstance, the respondents on 19.10.2023 and 20.10.2023 had conducted a surprise inspection at the petitioner's premises. It is the grievance of the petitioner that on the date of inspection, the marriage of the petitioner's sister Ms.E.Rubika, daughter of Mr.Elangovan and Mrs.Aruna and grand daughter and sister-in-law of other partners was taking place at Karur approximately 50 Km away from the business premises. The family members, including the Managing partner of the petitioner firm were engaged in the Wedding ceremony from the morning of 19.10.2023. Hence, the petitioner requested the respondents to conduct the inspection on 21.10.2023 and also informed them of the marriage. However, the 2nd respondent without accepting

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the same, directed the petitioner to send one of its accounting staff members to be present at the business premises to assist the officials during inspection. Though most of the staff members were unavailable due to the marriage function, one accounting staff member was sent who also cooperated with the respondents during inspection. However, no documents or materials were seized by the officials on the said dates. The very next day i.e., 20.10.2023, the petitioner came to the business premises in the late evening and was coerced into signing Form GST INS – 01. The petitioner was also directed to appear before the respondents on 23.10.2023 and sign a statement accepting the tax demands made by the respondents, while objecting to the demand for interest. No opportunity was given to dispute the contents of the statement. The accounting staff member who was present during the inspection was coerced by the Second respondent to log into the petitioner's GST Portal and making payments amounting to Rs.8,99,419/- from the credit balance available in the petitioner's electronic credit ledger, vide Form GST DRC-03 dated 19.10.2023 and 20.10.2023 in respect of four alleged defects for the year 2022-23. The accounting staff member was not even permitted to inform or obtain permission from the petitioner for the same.

4. The said fact was brought to the knowledge of the petitioner only on 21.10.2023. The 2nd respondent collected the amounts towards the alleged tax demands on the spot for the tax periods 2020-21 to 2023 – 24. The petitioner

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made a representation dated 06.11.2023, raising objections with regard to the payments made under protest and seeking a refund of the payments remitted through Form GST DRC-03. Pursuant to the said representation, on 07.11.2023, the respondents issued an intimation in Form GST DRC-01A on the following grounds:

i. Alleged payment of tax under reverse charge mechanism for freight expenses;

ii.Alleged ineligible ITC as per Section 17(5);

iii.Difference in tax value for sale of machinery;

iv.Reversal of ITC on alleged discount received.

5. According to the petitioner, the 2nd respondent had not considered the representation dated 06.11.2023, however had dropped the demand for interest, stating that the proposal of levy interest was dropped as per the submission of the petitioner that the alleged ineligible ITC had not been utilised and therefore no interest was payable under Rule 88 B.

6. The petitioner submits that a reply was submitted to the intimation vide letter dated 22.11.2023 stating that the payments made during inspection was not voluntary and that the alleged tax demand was unsustainable in the eye of law. A show cause notice in Form GST DRC-01 dated 15.12.2023 was issued by the 2nd respondent. Though the respondent referred to the petitioner's reply

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dated 22.11.2023, the respondent arbitrarily stated that the petitioner had fully discharged the tax liabilities proposed in the intimation and accordingly, issued the show cause notice with Nil proposals.

7. According to the petitioner, though the respondents considered certain claims made by the petitioner, they dropped the proposals to levy interest under Section 50(3) of the GST enactments r/w. Rule 88 B of the GST Rules. In the show cause notice issued by the respondent, the petitioner was given an opportunity of personal hearing on 11.03.2024. In its reply given in respect of the defects which were pointed out by the respondents, the petitioner has most specifically accepted the tax proposal in respect of defects 1, 3 and 4 relating to the payment of tax under the reverse charge mechanism in respect of 'freight expenses', the difference in the taxable value relating to the sale of machinery and ITC reversal in respect of discounts received. However, the first respondent passed an order in Form GST DRC-05 dated 27.03.2024 without considering the submissions made by the petitioner and the protest expressed in respect of spot-collection of the alleged tax demand at the time of inspection. Aggrieved by the said order, the present writ petition has been filed.

8. The learned counsel for the petitioner would submit that the impugned order is appealable under Section 107 of the CGST Act, 2017. Accordingly, the petitioner attempted to file a statutory appeal through the GST Portal and produced the evidence i.e., screenshot to that effect. According to the petitioner

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they were unable to file the appeal online due to the some technical glitch and therefore, manual appeal was filed and the same was not considered by the respondents.

9. It is the specific case of the petitioner that, if the entire demand had already been accepted and discharged by the petitioner, the coercive collection of the amount on the date of inspection even before the issuance of the intimation as contemplated under Form GST DRC – 01A followed by the issuance of an order in Form GST DRC-05 which is nothing but a denial of the petitioner's opportunity to prefer a statutory appeal before the competent authority.

10. The learned counsel for the petitioner would further submit that the respondent failed to issue Form GST DRC 04 as contemplated under Rule 142 of the GST Rules. If no Form GST DRC -04 is issued, the impugned order is legally unsustainable.

11. With regard to the legal submission, The learned counsel relied upon the Judgment of the Hon'ble Supreme court in ***Vallabh Textiles V. Senior Intelligence Officer*** reported in ***(2022) 145 taxmann.com 596*** wherein the Hon'ble Supreme Court held that Form GST DRC-04 was not voluntary and directed the department to refund the amount along with interest.

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12. He also relied upon the Judgment of the Division Bench of Calcutta High Court in ***ATR Malleable Casting (P.) Ltd. Vs. Inspector of Central Taxes reported in (2024) 164 taxmann.com 78 (Calcutta)*** wherein the Division Bench had considered the scope of non issuance of Form GST DRC-04 and the impact of non issuance of show cause notice by relying upon the Judgment in *Shree Ganesh Molosses Trading Co. Vs. Superintendent, Office of the Commissioner reported in (2023) 148 taxmann.com 36/97GST 41/72 G.S.T.L. 190/4 Centax 37 (Guj).* The relevant paragraph is extracted hereunder:

> *14. This submission is contrary to the statutory rule, which was considered in the case of Shree Ganesh Molasses Trading Co. v. Superintendent, Office of the Commissioner [2023] 148 taxmann.com 36/97 GST 41/72 G.S.T.L.. 190/4 Centax 37 (Guj.), wherein the Hon'ble Court referred to Rule 142(2) of the CGST Rules, 2017, which stipulates that where any person makes any payment of tax, interest, penalty, whether on his own ascertainment or as communicated by the proper officer under sub-rule (1A), he shall inform the proper officer of such payment in Form GST DRC-03 and the proper officer shall issue an acknowledgement, accepting the payment made by the said person in Form GST DRC-04. Admittedly, in the instant case, Form GST DRC-04 was not issued.*

13. The learned counsel for the petitioner submits that in the above cases, the Courts have held that where the authority fails to issue an acknowledgement in Form GST DRC-04, the assessee is entitled for refund of the amount paid.

14. The learned counsel for the petitioner also relied upon the Judgment of this Court in W.P.No.5192 of 2020 dated 26.02.2021 wherein the learned

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single Judge of this Court had considered the scope of Section 74(5) and necessary paragraphs are extracted hereunder:

> *24. The basis of this argument is flawed as I am not in agreement with the submission that Section 74(5) is a statutory sanction for advance tax payment, pending final determination in assessment. In my view, this is contrary to the scheme of assessment under Section 74, as I have noticed in paragraphs 12 to 16 above.*
>
> *25. The ratio of the decisions relied by the petitioner and several more besides, are to the effect that no collection can be insisted upon prior to a final determination of liability being made. These decisions, in my view, still hold the field. What Section 74(5) provides is the first opportunity to an assessee to pay tax, interest and penalty liability even prior to the issuance of a show cause notice and such acceptance will have to be in the form of either self-ascertainment or an ascertainment by the proper officer.*
>
> *26. Records were summoned to examine whether there was an ascertainment in this case. The records revealed the tabulation of instalments furnished by the assessee at the time of recording of statement and out of which the first two instalments have been paid. These, according to Mr.Sundareswaran constitute self-ascertainment and trigger the provisions of Section 74(5) and (7). Had this been the position, the records must contain material to show that (i) the assessee accepts the ascertainment made by it, (ii) the revenue has applied its mind and arrived at the position that the self-ascertainment by the assessee is inadequate and (iii) An ascertainment by the officer, as in the tabulation of payments (see para 3 of this order), the balance tax liability, after taking note of the amount of Rupees Seven Crores to be paid by the petitioner, is to be made by the officer. However, statement recorded at the time of search admitting GST liability and setting the scheme of instalments have been retracted by the petitioner on 05.11.2019 and the petitioner has consistently and vehemently been contested the liability to tax. Importantly,*

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the records also do not contain any ascertainment by the officer. The tabulation of payments in this case is joint, the petitioner offering a sum of Rupees Seven Crores (since retracted) and the Officer to ascertain the balance. This exercise has not been carried out and, with this, the requirement of 'ascertainment' under Section 74(5), fails.

27. Merely because an assessee has, under the stress of investigation, signed a statement admitting tax liability and has also made a few payments as per the statement, cannot lead to self-assessment or self-ascertainment. The ascertainment contemplated under Section 74(5) is of the nature of self-assessment and amounts to a determination which is unconditional, and not one that is retracted as in the present case. Had such ascertainment/self-assessment had been made, there would be no further proceedings contemplated, as Section 74(6) states that with ascertainment of demand in Section 74(5), no proceedings for show cause under Section 74(1) shall be issued. In this case, enquiry and investigation are on-going, personal hearings have been afforded and both the parties are fully geared towards issuing/receiving a show cause notice and taking matters forward. Thus, the understanding and application of Section 74(5) in this case, is, in my view, wholly misconceived.

28. In this context I may usefully extract from a decision in the case of Clear trip Private Ltd. and Ors. (supra), wherein a Bench of the Bombay High Court at paragraph 16 holds as follows:

> *16. We are clear in our minds and from the scheme of the Act and the Law as a whole that coercive measures, including effecting any arrest, would arise only when investigation has been completed and on launching the prosecution. If the prosecution is a criminal prosecution, then, there is no question of deviating or defeating from the Criminal Law. The Criminal Law contains several provisions including protective measures, which would enable the Petitioners to resist any arrest, as apprehended. In the*

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scheme of the Criminal Law and particularly the Finance Act, 1994 as well, if it contains any penal provisions, it is not as merely because the investigations are underway that the arrest would be effected. Eventually, all that the Respondents are presently contemplating is to investigate the matter. The Petitioners do not dispute the right to investigate and in accordance with law. That they have already attended the offices of the concerned Respondents and once the statement of the Petitioners was recorded goes without saying that on further summons being issued and on called upon to attend the Officers of the Respondents, they will attend and co-operate in these investigations by producing all the documents and answering the requisite queries, subject, of-course, to their rights in law. It is only when these investigations conclude that the authorities would be in a position to take a decision whether to launch any prosecution. In such a prosecution as well, if the provisions of the Criminal Law, which enable arrest in cases of cognizable offences and non-bailable, that the Petitioners can have an apprehension and which also can be taken care of by approaching a competent Criminal Court. Secondly, there is no question of any recovery of tax by coercive means, unless the investigation results into issuance of a show cause notice, an opportunity to the Petitioner to resist the demand, a adjudication thereof by a reasoned order and protective remedies such as appeals. We do not think that any recovery by coercive measures is straightway permissible and particularly in the given facts and circumstances of the case.

29. In SCA.No.3196 of 2021 (M/s.Bhumi Associate vs. Union of India through the Secretary) the Gujarat High Court is also concerned with a similar prayer as in this matter and the Bench has formulated the following guidelines for resolution of the above issues. The matter is pending decision.

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"The Central Board of Indirect Taxes and Customs as well as the Chief Commissioner of Central/ State Tax of the State of Gujarat are hereby directed to issue the following guidelines by way of suitable circular/instructions: (1) No recovery in any mode by cheque, cash, epayment or adjustment of input tax credit should be made at the time of search/inspection proceedings under Section 67 of the Central/Gujarat Goods and Services Tax Act, 2017 under any circumstances. (2) Even if the assessee comes forward to make voluntary payment by filing Form DRC03, the assessee should be asked/ advised to file such Form DRC03 on the next day after the end of search proceedings and after the officers of the visiting team have left the premises of the assessee. (3) Facility of filing complaint/ grievance after the end of search proceedings should be made available to the assessee if the assessee was forced to make payment in any mode during the pendency of the search proceedings. (4) If complaint/ grievance is filed by assessee and officer is found to have acted in defiance of the aforestated directions, then strict disciplinary action should be initiated against the concerned officer."

Sadly, the winds of change brought about by the era of GST do not appear to have made any impact on this position.

30. In the light of the discussion as above, the mandamus as sought for by the petitioner is issued. The amount collected, of Rupees Two Crores shall be refunded to the petitioner within a period of four (4) weeks from today.

15. Per contra, the learned Government Advocate (Tax) appearing for the respondents would submit that the payment was made by the petitioner through Form GST DRC-03 on 19.10.2023 and 20.10.2023. Even in the show cause

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notice issued in Form GST DRC-01 on 15.12.2023, the entire details were furnished to the petitioner and the petitioner has given a reply to the show cause notice on 08.01.2024 and thereafter an opportunity of personal hearing was afforded on 11.03.2023. The petitioner also submitted documentary evidence to establish his case and thereafter the final order was passed in Form GST DRC-05 on 27.03.2024.

16. The learned Government Advocate (Tax) would further submit that the application filed by the petitioner seeking a refund of the tax allegedly paid under coercion was withdrawn on 24.06.2024. Thereafter, the petitioner filed a manual appeal on 23.07.2024, which was rejected on 22.10.2024. He would further submit that by the communication issued vide GST/INV/Instructions/2022-23, dated 25.06.2022, specific direction was issued under Instruction No:01/2022-2023 (GST- Investigation) regarding the deposit of tax during the course of search, inspection or investigation and more specifically in Paragraph 3 and 4 which are extracted hereunder:

> *3. It is further observed that recovery of taxes not paid or short paid, can be made under the provisions of Section 79 of CGST Act, 2017 only after following due legal process of issuance of notice and subsequent confirmation of demand by issuance of adjudication order. No recovery can be made unless the amount becomes payable in pursuance of an order passed by the adjudicating authority or otherwise becomes payable under the provisions of CGST Act and rules made therein. Therefore, there may not arise any situation where "recovery" of the tax dues has to be made by the tax officer from the taxpayer during the course of*

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search, inspection or investigation, on account of any issue detected during such proceedings. However, the law does not bar the taxpayer from voluntarily making payment of any tax liability ascertained by him or the tax officer in respect of such issues, either during the course of such proceedings or subsequently.

4. Therefore, it is clarified that there may not be any circumstance necessitating recovery' of tax dues during the course of search or inspection or investigation proceedings. However, there is also no bar on the taxpayers for voluntarily making the payments on the basis of ascertainment of their liability on non-payment/ short payment of taxes before or at any stage of such proceedings. The tax officer should however, inform the taxpayers regarding the provisions of voluntary tax payments through DRC-03.

17. However, It is claimed by the petitioner that the respondents collected the tax amount though Form GST DRC 03 under coercion, whereas such payment ought to have been made voluntarily and the said coercion was brought to their notice through the representation dated 06.11.2023.

18. The learned Government Advocate (Tax) would submit that Form GST DRC-03 is a mechanism for voluntary payment made against the show cause notice / statement which is an intimation of tax ascertained though Form GST DRC -01(A). When GST DRC – 01 (A) is an intimation of tax ascertained as being payable under Sections 73(5) / 74(5) r/w. Rule 142(1A). However, the petitioner claimed that the payment which was made under Form GST DRC –03 should be voluntarily.

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19. The respondents have filed a detailed counter affidavit stating that they are entitled to conduct an inspection as contemplated under Section 67 of the Act and that the presence of the partners is not a statutory prerequisite for conducting such Inspection. When it is the specific case of the respondents that GST portal mandates an authentication process involving a one time password (OTP) which is sent to the exclusive mobile number and e-mail address of the partners of the firm. According to the respondents, the payment could have been made only after the OTP was entered and therefore, the petitioner cannot now plead that the amount was remitted under coercion. In the counter specifically in paragraph 9, the respondent has stated the above details which are extracted hereunder:

> *"9. With respect to Paragraphs 7 to 9, the Petitioner's narrative regarding an "intrusive" inspection due to a family wedding and alleged "coercion" is strongly denied. I state that there is absolutely no documentary evidence on record to show that the Petitioner ever requested a postponement of the inspection. The inspection was lawfully conducted on 21.10.2023 based on the order of the Principal Commissioner of Commercial Taxes in GST INS-01 Sl.No. 22/TPR/2023-24 dated 19.10.2023. The physical presence of the Partners is not a statutory mandate; the Petitioner's authorized representative was present, assisted the officials, perused the INS-01 authorization, and duly affixed signatures on the inspection findings. Crucially, the allegation of coercion to log into the GST portal and pay Rs. 2,24,09,652/- is a fabricated afterthought. Form GST DRC-03 is a mechanism for voluntary payment. It is highly pertinent to note that a payment via the GST portal cannot be executed without the Username, Password, and a One-Time Password (OTP). This OTP is sent*

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exclusively to the registered mobile number and email ID of the Partners. The inspecting officers have no access to this OTP. The Petitioner's side consciously retrieved the OTP and voluntarily paid the tax to avoid the levy of severe penalties under Section 73(5)/74(5) of the Act. Furthermore, the claim of 'coercion' is a highly disputed question of fact, allegations that DRC-03 payments were extracted under coercion require fact-finding and the leading of evidence, which is strictly outside the scope of the extraordinary writ jurisdiction under Article 226. Therefore, these averments are liable to be rejected outright."

20. It is the specific case of the respondents that the request was made by the petitioner regarding the payments of tax made on 19.10.2023 and 20.10.2023 is after a delay of 17 days and the petitioner has not given any explanation for the delay of 17 days. According to the respondents, due to non utilisation of ITC, the levy of interest under Section 50(3) r/w. Rule 88 (b), was dropped and therefore taking into consideration the fact that the petitioner has voluntarily discharged the tax liability as contemplated under Section 73(5), 74(5), there was no outstanding demand and therefore the respondents had complied with Rule 142(3) by accepting the payment and concluding the proceedings via Form GST DRC – 05 and submitted that there is no infirmity in the order passed by the authority.

21. Heard the learned counsel for the petitioner and the learned Government Advocate (Tax) appearing for the respondent and perused the materials available on record.

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22. It is to be seen that the date of surprise inspection coincided with the dates of wedding in the petitioner's family, namely, on 19th and 20th of October 2023. Generally, a family wedding is not merely an occasion or celebration comparable to a festival observed over a day or two. The organisation of wedding involves several months of preparation. Although the scale and complexity of the arrangements may differ depending on whether the wedding is a small and intimate or a grand, the underlying remains significant. However, every wedding involves essential traditions and arrangements including inviting families, choosing a venue, purchasing clothes and organising rituals. The moment a wedding is fixed, it brings great happiness to both families. This joy is backed by careful and detailed planning to ensure that the wedding and reception proceed smoothly for the couple, their relatives, and all the invited guests. In such circumstances, the inspection having been conducted on 19th and 20th of October 2023 the very dates on which, the wedding was taking place, the presence of the petitioner and the other partners at the business premises could not be possible.

23. As regards the representation dated 06.11.2023, it is true that the same was submitted 17 days after the payments were made, and no specific explanation was initially furnished for the delay. However, the said delay cannot, by itself, be a ground to reject the petitioner's claim. Although the wedding ceremony may be solemnized on the scheduled date, there are certain

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customary procedures and formalities associated with a marriage may continue thereafter and it takes minimum of weeks time for the family to settle down all the formalities after the marriage and return to its normal routine.

24. Similarly, when a death occurs, the bereaved family must perform specific cultural and religious ceremonies. Different religions and communities follow distinct customs that are not empty formalities, rather, assist family members in accepting the physical absence of their loved one. Religious rituals performed on the 3rd, 7th, 10th, and 15th days allow the family to gradually process that the departed soul is no longer physically present. This 15-day period helps them accept the inevitable reality of death and adjust their minds to the loss. These procedures are far more than mere customs. They carry a profound psychological impact, providing a structured way for a family to navigate the profound transition from joy to sorrow.

25. As the customs and procedure which happens in a wedding and in death cannot be brushed aside mechanically and the delay as raised by the respondents with regard to unexplained delay of 17 days cannot be taken into consideration and therefore, such plea is rejected at the outset.

26. It is pertinent to consider the counter in paragraph 11 where the counter has been specifically stated that the following:

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11. With respect to Paragraphs 13 to 18, the Petitioner's allegation that the 1st Respondent passed the Impugned Order "without applying his mind" is stoutly denied. I state that following the voluntary payment of tax via Form DRC-03, the Proper Officer initiated steps to issue an acknowledgment in Form GST DRC-04. However, at this juncture, the Petitioner suddenly demanded a refund. To comply with the principles of natural justice, the Proper Officer formally issued a Show Cause Notice in Form DRC-01 and afforded a personal hearing to the Petitioner on 22.03.2024. A perusal of the Impugned Order reveals that the Proper Officer did not blindly confirm all proposals, for instance, the proposal to levy interest under Section 50(3) read with Rule 88B was dropped. Since there was no new tax demand and the full tax amount had already been paid voluntarily via Form DRC-03, the Proper Officer, acting strictly in accordance with Rule 142(3), rejected the Petitioner's baseless objections and rightfully concluded the proceedings by issuing the order in Form DRC-05. There was no statutory requirement to issue a demand order in Form DRC-07 when the tax was already paid in full.

27. It is to be noted that following the voluntary payment of tax via Form GST DRC-03, the respondent authority initiated steps to issue an acknowledgment in Form GST DRC-04. At this juncture, the petitioner has demanded refund. To comply with the principles of natural justice, the respondent issued a show cause notice in Form DRC – 01 and afforded the petitioner an opportunity of personal hearing on 22.03.2024.

28. It is clear from the above said counter that the respondents had not issued GST DRC – 04 and based on the recent notice only they have issued

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Form DRC– 01. The representation made by the petitioner on 06.11.2023 was not considered, which only shows the respondent failed to consider the stand raised by the petitioner and the non issuance of Form GST DRC – 04 is fatal to the respondent, in view of the Judgment of the Division Bench of Calcutta High Court in ***ATR Malleable Casting (P.) Ltd. Vs. Inspector of Central Taxes*** reported in ***(2024) 164 taxmann.com 78 (Calcutta)*** which squarely applies to the present case. Hence, the impugned order is liable to be set aiside.

29. Accordingly, the orders dated 27.03.2024 in reference No.33ABSFA3372JIZ7/2020-21, 33ABSFA3372JIZ7/2021-22**,** 33ABSFA3372 JI Z72022-23 and 33ABSFA3372JIZ7/2023-24 passed by the first Respondent are hereby set aside. The respondents are directed to refund the amounts remitted under IGST, CGST and SGST during surprise inspection for the assessment years 2020-21, 2021-22, 2022-23 and 2023-24 as prayed for by the petitioner, within a period of eight weeks from the date of receipt of a copy of this order.

30. It is needless to mention that if the petitioner intends to file an appeal, the appeal can be filed manually within a period of twelve weeks from the date of receipt of a copy of this order.

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31. With the above direction, these writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Speaking order / Non speaking order
Neutral Citation : Yes / No

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To

1.The State Tax Officer
Inspection Group-1, Office Of The Joint
Commissioner (st) Tirupur Intelligence Division,
5/147, Aepc Building, Kaikattipudur, Tirupur Main
Road, Avinashi-641 654.

2.The State Tax Officer Intelligence
Inspection Group-V Office of the Joint
Commissioner (ST) Tirupur Intelligence Division
5/147, AEPC Building, KaikattiPudur Tiruppur
Main Road Avinashi- 641 654

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N.SENTHILKUMAR J.

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Pre delivery order in
WP Nos.30908, 31022, 31026 & 31597 of 2024 and
WMP Nos. 33490, 33645, 33635 & 34347 of 2024

28-10-2026

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