IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.24012 of 2021
and
W.M.P.Nos.25313 & 25315 of 2021

(Through Video Conferencing)

1.R.Srividya

2.Kavitha ... Petitioners

Vs

1.The Appellate Deputy Commissioner (ST),
Goods and Service Tax, Commercial Tax Building,
Dr.Balasundaram Road,
Coimbatore - 641 018.

2.The Assistant Commissioner,
State Goods and Service Tax,
Ramnagar Circle, Coimbatore.

3.The Assistant Commissioner,
State Goods and Service Tax,
Gandhipuram Circle, Coimbatore.

4.R.Satyalakshmi @ Lakshmi

5.R.Balamurugan ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned communication dated 12.08.2021 of the first respondent Ref.No.624/2021/A2 and quash the same and further direct the first respondent to provide a copy of the order No.87/2021 dated 19.04.2021.

For Petitioners : Mr.Hari Radhakrishnan

For Respondents
For R1 to R3 : Mr.D.Ravichander
Government Counsel

ORDER

Mr.D.Ravichander, learned Government Counsel takes notice on behalf of the first to third respondents.

2. This Writ Petition is disposed by dispensing with the notice on the private respondents 4 & 5 as no orders are proposed to be passed against them.

3. This Writ Petition has been filed by the petitioner to quash the impugned communication dated 12.08.2021 of the first respondent bearing Ref.No.624/2021/A2 and for a consequential direction to the first respondent to provide a copy of the order in A.P.No.87 of 2021 dated 06.05.2021.

4. The petitioners are the two sisters who are the Legal Heirs of late C.Ramadoss. The other legal heirs of Late C.Ramadass are the fourth and fifth respondents, who are the mother and brother of the petitioners.

5. It is the case of the petitioners that late C.Ramadass died on 14.08.2020. It is further case of the petitioners that the fourth and fifth respondents took over the business run by late C.Ramadass and a suit has been filed by the first petitioner in O.S.No.672 of 2020 before the learned District Judge, Coimbatore for partition of suit properties of late C.Ramadass which includes the trade name and the business of late C.Ramadass.

6. It is submitted that recently the petitioners came to know that the fourth respondent had taken steps to transfer GST registration bearing GSTIN No.33AAWPL9568L1ZN to his name without getting consent from the petitioners herein.

7. Under these circumstances, the petitioners approached the third respondent, the Assistant Commissioner to cancel the transfer of GST registration in the name of the fourth respondent and that the third respondent by an order dated 17.02.2021 bearing reference in Na.Ka.No.29/2021/A2 also cancelled the same.

8. Aggrieved by the same, the fourth respondent appears to have filed an appeal before the first respondent who has passed an order dated 06.08.2021 by setting aside the order dated 17.02.2021. It is submitted that the order was passed without due notice to the petitioners and copy of the said order has not been furnished to the petitioners.

9. The petitioners intend to file an appeal against the aforesaid order dated 06.08.2021. However, by a communication

dated 12.08.2021, the first respondent Appellate Deputy Commissioner (ST) has informed the petitioners that a copy of the order is a Government Record and cannot be handed over to a third party and hence the petitioners were directed to approach the third respondent to vent out their grievances.

10. The petitioners have also approached the third respondent which has not yielded any fruitful result. On the other hand, the second respondent Assistant Commissioner by an communication dated 28.09.2021 has informed the petitioners that Tamil Nadu GST Department is no way related to succession/partition disputes and the same shall be decided only by the Court.

11. The learned counsel for the petitioners submits that the petitioners would be satisfied if copy of the order cancelling the order dated 17.02.2021 passed by the third respondent is furnished to them so that the petitioners can file an appeal before the Appellate Tribunal.

12. The case of the petitioners appears to be reasonable inasmuch as order dated 17.02.2021 of the third respondent with order dated 06.08.2021 of the first respondent was passed in gross Violation of Principles of Natural Justice. The first respondent should have put the petitioners to notice before passing such orders. The first respondent also ought not to have denied the information called for after having passed an order without due notice to the petitioners.

13. Though the learned Government Counsel for the first to third respondents submits that the petitioners are entitled to summon records in terms of Rule 75 of the Civil Rules of Practice framed by the High Court and also have an alternate remedy by way of application under the Right to Information Act, 2005, this Court is inclined to allow this writ petition by directing the first respondent to furnish a copy of the order dated 06.08.2021 in A.P.No.87 of 2021 within a period of fifteen days from the date of receipt of a copy of this order.

14. This writ petition stands allowed with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Appellate Deputy Commissioner (ST),
Goods and Service Tax, Commercial Tax Building,
Dr.Balasundaram Road,
Coimbatore - 641 018.

2.The Assistant Commissioner,
State Goods and Service Tax,
Ramnagar Circle, Coimbatore.

3.The Assistant Commissioner,
State Goods and Service Tax,
Gandhipuram Circle, Coimbatore.

+1cc to the Special Government Pleader(Taxes), S.R.No.58154

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and
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KG(CO)
SB(01/12/2021)