



W.P.No.35411 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.12.2023

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.35411 of 2023
and
W.M.P.No.35374 of 2023

1.Rekha.S
2.Kavitha.S
3.Sudha.V
4.M.K.Nithish
5.M.K.Ganesh

... Petitioner

Vs.

The Assistant Commissioner (ST),
Thirumullaivoyal Assessment Circle,
Integrated Building for Commercial Taxes,
32, Elephant Gate Bridge Road,
Vepery Chennai 600 003.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the respondent in Ref No.33AGEPG0149C1Z6/A3 dated 01.03.2023 and quash the same as arbitrary, illegal.



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For Petitioner : Mr.C.A.Ashok Kumar

For Respondent : Mr.T.N.C.Kaushik,
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 01.03.2023 passed by the respondent.

2. Mr.T.N.C.Kaushik, learned Additional Government Pleader, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioners would submit that the petitioners are the legal heirs of the deceased M.K.Girish, who was running business in the name of “M/s.M.K.M.& Sons”. The said M.K.Girish was passed away on 25.02.2021 and the same was intimated to the respondent by way of online application dated 29.06.2022.



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4. Further, he would submit that under these circumstances, GST DRC-01A dated 06.07.2022 and GST DRC-01 dated 21.11.2022 was issued by the respondent in the name of deceased M.K.Girish. Thereafter, the aforesaid impugned assessment order was also passed by the respondent on 01.03.2023 against the dead person. Therefore, he would contend that the said assessment order is liable to be set aside, since the said proceedings were initiated against a dead person.

5. In reply, the learned counsel for the respondent would fairly submit that GST DRC-01A dated 06.07.2022 and GST DRC-01 dated 21.11.2022 was issued against the dead person. Further, he would submit that the said notices may be treated as notice to all the petitioners, who are the legal heirs of the M.K.Girish and the petitioners can file their reply to the said notices, thereafter, the respondent will pass appropriate orders after providing sufficient opportunities to the petitioners.



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6. The learned counsel for the petitioner would accept the suggestion made by the learned counsel for the respondent. However, he would submit that since the assessment order was passed against the dead person, the same is liable to be set aside.

7. Heard the learned counsel for the petitioner and the respondent and also perused the materials available on record.

8. In view of the above, the fact remains that the impugned assessment order came to be passed against the dead person, which is non-est in law and hence, it is liable to be set aside. Accordingly, the said impugned order dated 01.03.2023 is set aside.

9. This Court is of the considered view that the petitioners shall consider the notice issued by the respondent dated 06.07.2022 as a notice issued to them as on date. Thus, the petitioners are directed to file a reply to the said notice within a period of 6 weeks from the date of receipt of copy of this order. Thereafter, the respondent is directed to pass



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appropriate orders after providing opportunities of personal hearing to the petitioner.

10. With the above direction, this writ petition is disposed of. Consequently, the connected miscellaneous petition is also closed. No cost.

19.12.2023

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

nsa

To

The Assistant Commissioner (ST),
Thirumullaivoyal Assessment Circle,
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KRISHNAN RAMASAMY.J.,
nsa

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