BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.09.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.22315 of 2023
and
W.M.P.(MD).No.18600 of 2023

1.S.Meena

2.K.Maheswari ... Petitioners

Vs.

The State Tax Officer(FAC),
Sankaran Kovil,
Tirunelveli District. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records in TNGST 5661382/98-99 dated 30.09.2003 and the consequential orders in TNGST 5661382/98-99 dated 30.12.2022 passed by the respondent and quash the same as arbitrary and illegal and diret the respondent to pass order afresh after the issuance of the notice to the petitioners in the capacity of legal heirs of Mr.Late. Velusamy Konar, Prop. Of M/s.Kanna Chemicals (Defunct).

For Petitioner : Mr.S.Karunakar

For Respondents : Mr.B.Saravanan,
Additional Government Pleader

ORDER

This Writ Petition is filed for Writ of Certiorarified Mandamus, to quash the order dated 30.09.2003 and the consequential order dated 31.12.2022 and direct the respondents to issue fresh notice to the petitioners in capacity of legal heirs of the assessee and thereafter pass orders.

2. One Velusamy Konar is the proprietor of M/s. Kanna Chemicals (Defunct) and he is an assessee under Commercial Tax. The said Velusamy Konar died on 04.07.2001. During his life time the assessee's place of business was inspected by the Enforcement Wing Officials on 19.01.1998 and certain discrepancies were noticed. Thereafter, summon was issued to the deceased assessee and based on the available records, assessments were finalized for two assessment years (i.e.,) 1997-1998 and 1998-1999. The respondents treated his wife namely, Subbulakshmi as the legal heir and finalised the assessment on 30.09.2003. Thereafter, recovery was initiated. Questioning the same, the wife of the deceased filed W.P.(MD)No.11805 of 2011 and the same was dismissed on 30.01.2019 on the ground that the primary order of assessment was not

questioned and the challenge was only the recovery action. In the meanwhile, the said Subbulakshmi died, in the year 2017. When the respondent issued attachment notice attaching the property comprised in Survey No.538/1A, Kalapakulam Village, Sankarankovil Taluk, the other two legal heirs namely, the daughters of the deceased filed W.P.(MD)No.17983 of 2020. After considering the claim of the daughters, this Court had passed an order dated 31.03.2021 directing the legal heirs to pay Rs.5,00,000/- and remitted the case to the respondents to issue notice and thereafter to consider the case of the petitioner for re-assessment. Unfortunately the daughters had challenged only the assessment order dated 30.09.2003 for the assessment year 1997-1998 alone, but failed to challenge the assessment order for the assessment year 1998 – 1999, which fact is recorded in the said order passed in the aforesaid writ petition.

3. Therefore, following the said judgment, this Court also directs the petitioners to pay Rs.6,00,000/- (Rupees Six Lakhs only) to the credit of the petition mentioned proceedings within a period of six weeks (6) from the date of receipt of a copy of this order. The petitioners shall not take the limitation as a defence. Therefore, the impugned order stands quashed. The matter is remitted back to the file of the respondent to pass orders afresh in accordance with law.

The respondent shall issue notice to the petitioner herein within a period of four weeks (4) and grant personal hearing. The said enquiry shall be completed within a period of five months therefrom.

4. With these observations and directions this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

13.09.2023
(3/3)

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No

Sml

To

The State Tax Officer(FAC),
Sankaran Kovil,
Tirunelveli District.

S.SRIMATHY, J.

Sml

W.P.(MD).No.22315 of 2023

13.09.2023
(3/3)