IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED**: 16.02.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.3320 of 2024
and W.M.P.Nos.3574 & 3575 of 2024

Ms.Preetha Vasunathan,
Legal Heir of Late Kandasamy Vasunathan,
No.1/550, TPN Garden,
K.Chettipalayam, Muthanampalayam,
Tiruppur 641 606. ... Petitioner

-vs-

1.Assistant Commissioner (ST),
No.16, Emperor Building,
Indira Nagar, Avinashi Road
Tirupur Bazaar Circle,
Tiruppur - 641 603.

2.State Tax Officer (ST),
Bazaar Assessment Circle,
Tiruppur - 641 603. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records on the file of the second respondent in GSTIN: 33ABPPV8547H1ZY/2019-20 and quash the impugned order dated in GSTIN: 33ABPPV8547H1ZY/2019-20 18.04.2023 passed under the TNGST Act, 2017 passed by the second respondent as illegal and not in accordance with law.

For Petitioner : Mr.R.Sivaraman

For Respondents : Mr.C.Harsha Raj, AGP (T)

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ORDER

An assessment order dated 18.04.2023 is assailed primarily on the ground that the said order and the show cause notice that preceded it were issued to a dead person.

2. The petitioner is the daughter of the deceased assessee. It is stated that the notice in Form GST ASMT-10 was received by the

deceased assessee during his life time. Since he was ailing at that time, he could not respond thereto. The petitioner states that her father died on 27.08.2022 and that both show cause notice dated 27.12.2022 and the impugned assessment order dated 18.04.2023 were subsequent thereto.

3. Mr.C.Harsha Raj, learned Additional Government Pleader, accepts notice on behalf of the respondents. On instructions, he submits that returns were filed on behalf of the assessee even in February 2024. He further submits that the GST authorities were not informed about the death of the assessee.

4. Since the death of the assessee was not brought to the notice of the GST authorities, they were clearly not at fault in issuing the notice and assessment order in the name of a dead person. Nonetheless, since proceedings against a dead person are not sustainable, the impugned order warrants interference.

5. Consequently, the impugned assessment order dated 18.04.2023 is quashed. As a corollary, the respondents are directed to issue a fresh show cause notice to all four Class-I legal heirs of the deceased assessee, as per the legal heirship certificate dated 27.09.2022, and thereafter proceed in accordance with law.

6. W.P.No.3320 of 2024 is disposed of on the above terms. Consequently, W.M.P.Nos.3574 and 3575 of 2024 are closed.

16.02.2024

rna
Index : Yes / No
Internet : Yes / No
Neutral Citation: Yes / No

To

1.Assistant Commissioner (ST),
No.16, Emperor Building,
Indira Nagar, Avinashi Road
Tirupur Bazaar Circle, Tiruppur - 641 603.

2.State Tax Officer (ST),
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SENTHILKUMAR RAMAMOORTHY,J

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