IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **03.07.2024**

CORAM

THE HONOURABLE **MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.No.16219 of 2024
and W.M.P.Nos.17754 & 17755 of 2024

Mr.Kumaresan ... Petitioner

-vs-

Commercial Tax Officer,
Tirupur (South), Tirupur Zone – II,
No.32, Emperor Building, Indira Nagar,
1st Street, Avinashi Road,
Tiruppur – 641 603. ... Respondent

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 respondent in GSTIN: 33ACWPM5775A1ZC and quash the impugned order in Reference No.: ZD331223168268E dated 22.12.2023 under Section 73 of the TNGST Act passed by the respondent for the assessment year 2017-2018 as illegal and not in accordance with law.

For Petitioner : Mr.Raghav Rajeev Menon
for Mr.R.Sivaraman

For Respondent : Mrs.K.Vasanthamala, GA (T)

****

ORDER

An assessment order dated 13.12.2023 is challenged on the ground that such order was issued to a dead person. Pursuant to show cause notice dated 28.09.2023, the impugned assessment order was issued on 13.12.2023. The present writ petition is filed on the basis that the tax payer died prior to the assessment order on 07.11.2023.

2. Learned counsel for the petitioner states that his father was ailing for a considerable period of time, including the time when the show cause notice was issued by the respondent. Consequently, it is stated that neither the petitioner nor the legal heirs could respond to such show cause notice. He further submits that his father left

behind four class-I legal heirs.

3. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She submits that the petitioner and the other legal heirs were under an obligation to inform the respondent about the death of the tax payer and to provide details of the legal heirs. She also submits that the show cause notice was issued during the lifetime of the tax payer.

4. Upon comparing the show cause notice with the death certificate, it is clear that the show cause notice was issued prior to the death of the tax payer. The petitioner has placed on record such show cause notice, thereby evidencing that the petitioner is in possession thereof. As contended by learned Government Advocate, either the tax payer or the legal heirs should have responded to the show cause notice. Nonetheless, in view of the death of the tax payer prior to the issuance of the assessment order, such order cannot be sustained.

5. For reasons aforesaid, W.P.No.16219 of 2024 is disposed of by setting aside the impugned order dated 22.12.2023 and by permitting the respondent to issue a show cause notice to all the class-I legal heirs of the deceased tax payer and to proceed further in accordance with law. In order to enable the same, the petitioner is directed to provide necessary particulars, including the addresses of such legal heirs, within ***two weeks*** from the date of receipt of a copy of this order. No costs. Consequently, W.M.P.Nos.17754 and 17755 of 2024 are closed.

03.07.2024

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

To

Commercial Tax Officer,
Tirupur (South), Tirupur Zone – II,
No.32, Emperor Building, Indira Nagar,
1st Street, Avinashi Road,
Tiruppur – 641 603.

SENTHILKUMAR RAMAMOORTHY,J

rna

W.P.No.16219 of 2024
and W.M.P.Nos.17754 & 17755 of 2024

03.07.2024