IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2024

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.19788 of 2024
and W.M.P.Nos.21672 and 21673 of 2024

Jai Prakash ... Petitioner

Vs.

The Superintendent of GST and Central Excise (FAC),
No.48/1, Azeez Nagar Main Road,
Azeez Nagar, Reddiarpalayam,
Puducherry - 605 010. ... Respondent

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari, to quash the impugned order in Original No-11/2023-24 dated 04.12.2023 bearing reference number DIN 20231259XQ0000419739.

For Petitioner : Mr.V.Veeraraghavan

For Respondent : Mr.K.S.Ramaswamy
Senior Standing Counsel

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ORDER

The present Writ Petition is filed for the issuance of a Writ of Certiorari, to quash the impugned order in Original No-11/2023-24 dated 04.12.2023 bearing reference number DIN 20231259XQ0000419739.

2. The learned counsel for the petitioner submits that the impugned order was passed in the name of the dead person, who is the mother of the petitioner. The assessee passed away on 27.04.2021. After the death of the assessee, the petitioner moved an application for amendment int the GST portal on 10.07.2021 and the same is still pending. Due to pendency of the said application, the petitioner is unable to surrender the GST registration owing to death of proprietrix despite closure of business. Despite the intimation of the death of his mother, who was the sole proprietor of the business, the respondent issued show cause notice No.113/2023 dated 28.06.2023 in the name of the dead person namely Mrs.Manjukumari, who stood deceased much prior to the date or show cause notice. The petitioner failed to reply to the show cause notice issued by the respondent as the said business was closed down.

3. He further submits that the show cause notice had alleged that opportunities for personal hearing was given to the petitioner on 15.11.2023, 21.11.2023 and 28.11.2023, but, the petitioner never received a notice for personal hearing as contemplated in the show cause notice. Thereafter, the respondent passed the impugned order No.11/2023-2024, dated 04.12.2023, which was also issued in the name of dead person and the same was uploaded in the common portal. He also produced a copy of legal heirship certificate dated 23.05.2022 and the same reads as follows:-

LEGAL HEIRSHIP CERTIFICATE

This is to certify that Late Tmt.Manju Kumari W/o. Sharmal resided at No.34, Thirumudi Nagar, Anna Salai, Puducherry Distrct; Puducherry State expired on 27.04.2021 leaving behind her the following persons as her legal heirs:-

S. No	*Name*	*Age (in years)*	*Relationship with the deceased*	*Marital status*	*Aadhaar No./ Aadhar enrolment No.*
1.	Thiru.Sharmal	61 (2021)	Husbande	Widower	9959 3857 6827
2.	Selvan. Rajeshkumar	26 (2021)	Son	Unmarried	5372 8703 5269
3.	Thiru.Jai Prakash	25 (2021)	Son	Married	2318 6905 3788

4. Therefore, the learned counsel for the petitioner submits that the proceedings initiated and concluded in the name of the dead person stands vitiated in law and hence, the same may be set aside.

5. The learned Senior Standing Counsel for the respondent would fairly submit that since the assessment order was passed against the dead person, an appropriate order may be passed.

6. Considering the fact that the impugned assessment order was passed in the name of the dead person, which is not sustainable in law and the petitioner has also furnished the details of the legal heirs to initiate the further proceedings by the respondent, this Court is inclined to set aside the impugned order dated 04.12.2023 and accordingly, the same is set aside. While setting aside the impugned order, this Court directs the respondent to initiate the proceedings against the legal heirs of the deceased assessee by issuing a show cause notice within a period of four (4) weeks from the date of receipt of a copy of this order. The respondent shall also send a physical reminder, to all the legal heirs for filing a reply to the show cause notice already issued in the name of the dead person on 28.06.2023, within a period of four (4) weeks. After receipt of

the reply, the respondent shall afford an opportunity of personal hearing by sending a physical notice and thereafter, pass orders on merits and in accordance with law.

With the above directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

19.08.2024

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To

The Superintendent of GST and Central Excise (FAC),
No.48/1, Azeez Nagar Main Road,
Azeez Nagar, Reddiarpalayam,
Puducherry - 605 010.

KRISHNAN RAMASAMY, J.

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