IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.08.2024

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.23829 of 2024 &
W.M.P.Nos.26081 and 26282 of 2024

C.Ramakrishna Padayatchi,
Proprietor Chinnathambi Ramakrishnan (deceased)
represented by his son, the Legal Heir, Mr.Selvamani CR,
West Street, Melmampattu, Melmampattu Post,
Panruti, Cuddalore, Tamilnadu- 607 103. ... Petitioner

..Vs..

The Deputy State Tax Officer-1.
O/o.State Tax Officer (ST),
Panruti Town Assessment Circle,
Panruti. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the Respondent in GSTIN/33AAEPR7030F1ZZ/2018-19 dated 30/04/2024 along with the demand notice in DRC-07 issued in Reference No.ZD330424256510R dated 30/04/2024 as being non-est in the eye of law quash the same as erroneous, illegal and being violative of the principles of the natural justice.

For Petitioner : Mr. V.Sudnareswaran

For Respondent : Mr.G.Nanmaran
Special Government Pleader (Taxes)

ORDER

This writ petition has been filed challenging the order of the Respondent along with the demand notice dated 30/04/2024 as being non-est in the eye of law and quash the same as erroneous, illegal and being violative of the principles of the natural justice.

2. Mr.G.Nanmaran, learned Special Government Pleader (Taxes) takes notice on behalf of the respondent.

3. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4. The learned counsel for the petitioner would submit that after filing of the returns for the Assessment Year 2020-2021, the Proprietor of the Petitioner's concern i.e., C.Ramakrishnan passed away on 30.10.2022 and the petitioner who is the son of the deceased C.Ramakrishnan, has filed this Writ Petition on behalf of the Legal Heirs. Further, he would

submit the death of the deceased C.Ramakrishnan was informed to the Respondent by the Petitioner's mother vide letter dated 21.02.2023 and that apart a letter was also sent to the Respondent on 21.06.2023 requesting them to cancel the Registration certificate, pursuant to which the Respondent also cancelled the same vide order dated 17.07.2023 and despite the same, the Respondent issued a show cause notice in the name of the Petitioner's father on 19.06.2023, followed with three reminders and all these notices/communications were uploaded in the "additional notices and summons" column instead of "notices and summons" in the GST portal and therefore the Petitioner is not aware of the same and subsequently impugned order dated 30.04.2024 came to be passed and therefore the same is in violation of principles of natural justice.

5. The learned counsel for the Petitioner further submitted that since the impugned order was passed against the dead person i.e., the Petitioner's father the same is liable to be set aside. He further submitted that there are totally four Legal Heirs to the Petitioner's father and the Petitioner is ready and willing to file reply to the show cause notice on

behalf of all other Legal Heirs and the same may be directed to be considered by the Respondent.

5. The learned Special Government Pleader (Taxes) appearing for the Respondent submitted that the Respondent was not aware about the death of the Petitioner's father and fairly submitted that if the Petitioner's files an affidavit informing the death of his father, before the Respondent along with reply to the show cause notice on behalf of other legal heirs, the Respondent will consider the same and pass orders.

6. Heard the learned counsel for the petitioner and the learned Special Government Pleader (Taxes) for the respondent and also perused the materials available on record.

7. In the case on hand, since the impugned order came to be passed against the Petitioner's father who is no more, this Court is inclined to set aside the impugned order and the consequent demand notice dated 30.04.2024. Accordingly, this Court passes the following order:-

(i) The impugned order and the demand notice dated 30.04.2024 are set aside and the matter is remanded to the Respondent for fresh consideration.

(ii) The Respondent is directed to file an affidavit informing about the death of the Petitioner's father before the Respondent along with reply to the show cause notice dated 19.01.2024, within a period of four weeks from the date of receipt of a copy of this order.

(iii) On receipt of the same, the Respondent is directed to pass orders on merits and in accordance with law, after affording an opportunity of personal hearing to the Petitioner, as expeditiously as possible.

KRISHNAN RAMASAMY.J.,

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8. With the above directions, this writ petition is disposed of. No

costs. Consequently, the connected miscellaneous petitions are also closed.

21.08.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To

The Deputy State Tax Officer-1.
O/o.State Tax Officer (ST),
Panruti Town Assessment Circle,
Panruti.

W.P.No.23829 of 2024 &
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