



W.P.No.23904 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.08.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.23904 of 2024
and
W.M.P.Nos.26168 & 26169 of 2024

Mr.Kumaresan

...Petitioner

Vs.

The Assistant Commissioner (ST),
Tiruppur South Circle, Tiruppur,
Indira Nagar, Avinashi Road,
Tirupur Bazaar Circle,
Tiruppur, Tamil Nadu-641 603.

... Respondent

Prayer: This Writ Petition filed under Article 226 of the Constitution of India for issuance of 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:ZD330324003576Q dated 01.03.2024 under section 73 of the TNGST Act passed by the respondent for the financial year 2018-2019 as illegal and not in accordance with law.

For Petitioner : Mr.Raghav Rajeev Menon
For Respondent : Mrs.K.Vasanthamala,
Government Advocate (Tax)



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ORDER

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By consent of the parties, the main Writ Petition is taken for disposal at the stage of admission itself.

2. An assessment order dated 01.03.2024 is challenged on the ground that such order was issued to a dead person. Pursuant to show cause notice dated 07.02.2023, the impugned assessment order was issued on 01.03.2024. The present writ petition is filed on the basis that the tax payer died prior to the assessment order on 01.03.2024.

3. 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.

4. Mrs.K.Vasanthamala, learned Government Advocate, accepts notice for the respondent. She submits that the petitioner and the other



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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.

5. In the present case, it appears that the impugned order dated 01.03.2024 was passed by the respondent against a dead person. In such case, the impugned order is liable to be set aside. Further, since the petitioner is the legal heir of the deceased, it is just and necessary to provide an opportunity to the petitioner to establish his case on merits. In such view of the matter, this Court is inclined to set aside the impugned order dated 01.03.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 01.03.2024 is set aside and the matter is remanded to the respondent for fresh consideration.

(ii) The petitioner is directed to provide all the necessary particulars with regard to the legal heirs of the deceased, if any, within a period of two weeks from the date of receipt of copy of this order.



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(iii) Thereafter, the respondent shall issue a copy of the show cause notice dated 07.02.2023 to the petitioner and other legal heirs of the deceased tax payer, if any.

(iv) Upon receipt of said show cause notice, the legal heirs of the deceased shall file their reply/objection along with the required documents, if any, within a period of two weeks therefrom.

(v) On filing of such reply/objection by the legal heirs of the deceased, the respondent shall consider the same and issue a 14 days clear notice, by fixing the date of personal hearing, to the legal heirs of the deceased and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the legal heirs of the deceased, as expeditiously as possible.

6. With the above directions, this writ petition is disposed of.

No costs. Consequently, the connected miscellaneous petitions are also closed.

23.08.2024

Speaking/Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To



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Krishnan Ramasamy,J.,
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