IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.09.2024

Coram

The Hon'ble Mr.Justice Krishnan Ramasamy

W.P.No.26737 of 2024 &
W.M.P.Nos.29237 & 29238 of 2024

Rajarajeshwari Dhanesh (Deceased),
Rep. by her Husband and Legal Heir Mr. C.S. Dhanesh,
No.85/5, Pantheon Road, Srirangam Avenue,
Egmore, Chennai, Tamil Nadu, 600008. ...Petitioner

-Vs-

The State Tax Officer,
Egmore Assessment Circle,
No.88, 2nd Floor, Chetpet Taluk Office Building,
Mayor Rmanathan Salai, Spur Tank Road, Chetpet,
Chennai 600 031. ... Respondent

Prayer : This Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the respondent in order dated 08/04/2024 in GSTN 33AAIPR7484F1ZD/ 2018- 19 and quash the same as illegal, void, and non-est in the eye of law.

For Petitioner : Ms.C.Rekhakumari

For Respondent : Mrs.K.Vasanthamala
Government Advocate (Taxes)

ORDER

Challenging the order dated 08.04.2024 passed by the respondent, the petitioner has filed the present Writ Petition. The petitioner herein is the husband and legal heir of the assessee, namely Rajarajeshwari Dhanesh, who died on 13.05.2021.

2. Mrs.K.Vasanthamala, learned Government Advocate (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. An impugned order dated 08.04.2024, is challenged on the ground that such order was issued to a dead person.

5. The learned counsel for the petitioner submitted that the sale consideration of Rs.2,32,51,000/- for selling the two vacant plots belonging to the deceased namely Rajarajeshwari Dhanesh was wrongly reported as turn-over by the respondent. Pursuant to which, notices in ASMT-10 dated

10.07.2023 and DRC-01 dated 02.09.2023 were raised in the name of the deceased on the GSTN portal under the head "view additional notice and orders" tab. Since the GST registration was cancelled due to "death of sole proprietor", the petitioner had no occasion to gone through the GST portal and respond the said notices. Therefore, the present impugned order came to be passed by the respondent. Further, he would submit that even an impugned order was uploaded in the GST portal and the physical version of such order was not served on the petitioner, who is the husband of the deceased assessee. The petitioner came to know about the impugned order only when an attachment order issued by the respondent, attaching the Bank account of the deceased namely Rajarajeshwari Dhanesh. Hence, he sought for setting aside the impugned order and to direct the respondent to provide an opportunity to the petitioner and other legal heirs to present their case and participate in the proceedings before the respondent.

6. Mrs.K.Vasanthamala, learned Government Advocate would submit 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. Hence, she submitted that

appropriate orders may be passed by this Court and the same may be complied with.

7. Heard the learned counsel for the petitioner as well as the learned Government Advocate (Taxes) appearing for the respondent and perused the materials available on record.

8. Considering the above submissions made by the learned counsel on either side and upon perusal of the materials, it is evident that the impugned show cause notices were uploaded on the GST Portal Tab in the name of the deceased. As the order under challenge was passed against the dead person and without hearing the legal heirs of the deceased, the same is unsustainable in law. In such circumstances, this Court is of the view that it is just and necessary to provide an opportunity to the petitioner who is the husband of the deceased and also the other legal heirs to prosecute the case on his behalf and on behalf of other legal heirs of deceased Rajarajeshwari Dhanesh. Thus, this Court is inclined to set-aside the impugned order dated 08.04.2024 passed by the respondent.

9. Accordingly, this Court passes the following orders:-

(i) The order impugned herein 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.

(iii) Thereafter, the respondent shall issue a copy of the show cause notices dated 10.07.2023 & 02.09.2023 to the petitioner and other legal heirs of the deceased tax payer, if any.

(iv) Upon receipt of said show cause notices, 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 for 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.

10. With the above directions, this writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

18.09.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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To
The State Tax Officer,
Egmore Assessment Circle,
No.88, 2nd Floor, Chetpet Taluk Office Building,
Mayor Rmanathan Salai, Spur Tank Road, Chetpet,
Chennai 600 031.

Krishnan Ramasamy,J.,
jd

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