IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

WP.No.28701 of 2024
and W.M.P.Nos. 31297 and 31299 of 2024

Ramasamy Singaravelan (Deceased)
Proprietor of Sri Bhagavathi Amman Electricals,
Rep. by Legal Heir s.Sumathi,
49/1, 62/1, Kamaraj Street, Ganapathi Nagar,
D.G.Pudur, Erode – 638 506. .... Petitioner

Vs.

The Deputy State Tax Officer,
Office of the Deputy Commercial Tax Officer,
Sathyamangalam,
Erode ... Respondent

Prayer:- Writ Petition is filed, under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records of the respondent herein in the impugned proceedings vide order in GSTIN:33EDAPS6467J2Z3/2021-22 dated 28.03.2024 along with consequential order in Form GST DRC-07 bearing a Ref.No.ZD330324206770T dated 30.03.2024 for the tax period 2021-22 and quash the same.

For Petitioner : Ms.R.Hemalatha

For Respondent : Ms.Amirta Poonkodi Dinakaran
Government Advocate (Tax)

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O R D E R

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

2. The present Writ Petition has been filed to call for the records of the respondent herein in the impugned proceedings vide order in GSTIN:33EDAPS6467J2Z3/2021-22 dated 28.03.2024 along with consequential order in Form GST DRC-07 bearing a Ref.No.ZD330324206770T dated 30.03.2024 for the tax period 2021-22 and quash the same.

3. An impugned order dated 28.03.2024 is challenged on the ground that such order was issued to a dead person. Pursuant to show cause notice dated 06.02.2024, the impugned order was issued on 28.03.2024. The present writ petition is filed on the basis that the tax payer died on 07.05.2022 prior to the issuance of the said impugned order.

4. Learned counsel for the petitioner states that the present writ petition has been filed by one S.Sumathi who is the legal heir of the deceased Ramasamy Singaravelan, who was proprietor of the petitioner concern namely “Sri Bhagavathi Amman Electricals”. The respondent issued summary of show cause notice vide GST DRC-01 dated 06.02.2024

without enclosing the detailed show cause notice against the petitioner after his death. Subsequently, date of personal hearing was fixed on 28.02.2024. Thereafter, the respondent had issued impugned order dated 28.03.2024. Due to uncertain events, the legal heirs could not continue the business. The legal heir of the petitioner relied on the local tax consultant for managing petitioner's profile in GST web portal. However, the said tax consultant failed to intimate the present petitioner about the impugned notices issued by the respondent. Therefore, the petitioner could not file any reply to the summary of show cause notice within time. Consequently, it is stated that neither the petitioner nor the legal heirs could respond to such show cause notice.

5. Ms.Amirta Poonkodi Dinakaran, learned Government Advocate (T), 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. However, if any order is passed by this Court, the same will be complied with by the respondent.

6. In the present case, it appears that the impugned order dated 28.03.2024 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 28.03.2024 passed by the respondent. Accordingly, this Court passes the following order:-

(i) The impugned order dated 28.03.2024 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.

(iii) Thereafter, the respondent shall issue a copy of the show cause notice dated 06.02.2024 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 closed.

27.09.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Neutral Citation: Yes/No
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To
The Deputy State Tax Officer,
Office of the Deputy Commercial Tax Officer,
Sathyamangalam, Erode

KRISHNAN RAMASAMY, J.

msv

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