BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.06.2024**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) Nos.11643 &11644 of 2024
and
W.M.P.(MD) Nos.10375, 10376, 10384 & 10385 of 2024

<u>In W.P.(MD)No.11643 of 2024:</u>
R.Jayalakshmi ... Petitioner

Vs.

The Assistant Commissioner (ST),
Theni-1 Assessment Circle,
Theni. ... Respondent

<u>PRAYER:</u> Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records pertaining to the impugned order passed by the respondent vide his order in Reference No. 33AJOPR0638L1ZT/2017-18 dated nil-12.2023 and quash the same.

For petitioner : Mr.A.Satheesh Murugan

For respondent : Mr.R.Suresh Kumar
Additional Government Pleader

In W.P.(MD)No.11644 of 2024:

R.Jayalakshmi ... Petitioner

Vs.

The Assistant Commissioner (ST),
Theni-1 Assessment Circle,
Theni. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records pertaining to the impugned order passed by the respondent vide his order in Reference No. 33AJOPR0638L1ZT/2018-19 dated nil-01.2024 and quash the same.

For petitioner : Mr.A.Satheesh Murugan

For respondent : Mr.R.Suresh Kumar
Additional Government Pleader

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COMMON ORDER

By this common order, these Writ Petitions are taken up for disposal, after hearing the learned counsel for the petitioner and the Additional Government Pleader for the respondent.

2. The petitioner is the legal heir of Late.A.Radhakrishnan, Proprietor of the R.K.Distributor, died on 19.04.2022.

3. It is the case of the petitioner that the petitioner was unaware of the impugned orders and the notices that preceded the impugned orders as they were posted in the GST common portal and therefore, the petitioner failed to note the same. It is submitted that the petitioner cannot be mulcted with the liability for the assessment year 2017-18 and 2018-19 without an opportunity of being heard.

4. On the other hand, the learned Additional Government Pleader for the respondent would submit that after the petitioner's husband died, the GST registration was cancelled on 01.07.2022 with effect from 08.06.2022 as no returns were filed.

5. It is further submitted that the petitioner as a legal representative/legal heir of the deceased assessee namely, Late.A.Radhakrishnan, Proprietor of R.K.Distributors was liable to pay tax to the Government under Section 93 of the respective GST enactment.

6. After hearing the learned counsel for the petitioner and the Additional Government Pleader for the respondent, the Court is of the view that the impugned orders passed during the month of December 2023 and January 2024 are liable to be set aside and the cases be remitted back to the respondent to pass fresh orders on merits after giving an opportunity to the petitioner being re-heard.

7. The impugned orders, which stand quashed, shall be treated as addendum to the notices that preceded the impugned orders. The petitioner shall file a reply within a period of 30 days from the date of receipt of a copy of this order. The respondent shall pass fresh orders for the respective assessment years on merits and in accordance with law, as expeditiously as possible preferably within a period of three months thereafter. Needless to state, the petitioner shall also be heard.

Accordingly, these Writ Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes / No
apd

05.06.2024

To

The Assistant Commissioner (ST),
Theni-1 Assessment Circle,
Theni.

C.SARAVANAN, J.

apd

W.P.(MD) Nos.11643 & 11644 of 2024

05.06.2024