



W.P.(MD) No.11646 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) No.11646 of 2024
and
W.M.P.(MD) Nos.10386 & 10387 of 2024**

S.Anand Sathya

... Petitioner

Vs.

1.The Superintendent of CGST and Central Excise,
O/o. the Superintendent of Goods and Service Tax & Central Excise,
Marthandam Range,
48/1-4, First Floor,
Sivaraj Building, Tower Junction,
Nagercoil – 629 001.

2.The Additional Commissioner of Central GST & Excise,
Tirunelveli Sub-Commissinerate, Tirunelveli.

3.The Assistant Commissioner of Central GST & Excise,
Tirunelveli Division,
Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for
issuance of Writ of Certiorari to call for the records in



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C.No.IV/16/MTM/10/2022-SCR dated 04.05.2023 on the file of the first respondent and quash the same.

For petitioner : Mr.I.Romeo Roy Alfred

For respondents : Mr.N.Dilip Kumar
Senior Standing Counsel

ORDER

The petitioner is the legal heir of the deceased assessee namely, Late. A. Sathianesan. It appears that the petitioner's father, who was the registered dealer under the provisions of the respective GST enactment, died on 08.02.2023. After his father's death, the petitioner appears to have applied for cancellation of the GST registration on 08.05.2023, which was also acceded and the registration was cancelled in Form GST REG 19 on 25.05.2023 with effect from 01.05.2023.

2. It is the case of the petitioner that the petitioner was unaware of the impugned order dated 04.05.2023 that was passed, since it was host in the GST common portal. It is submitted that the notice that preceded the impugned order was hosted in the GST common portal which was noticed.



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3. It appears that the petitioner has also failed to appear in personal hearing fixed on 12.12.2022, 09.01.2023, 01.02.2023 and 28.02.2023. It is the case of the petitioner that the petitioner is unwell and therefore, he failed to participate in the proceedings.

4. On the other hand, the learned Senior Standing Counsel for the respondent would submit that there is no merit in this Writ Petition as the petitioner has obtained a certificate from Chartered Accountant as on 27.02.2024 to explain the purported mismatch of the Input Tax Credit availed by his father in the business carried by him before his death.

5. It is submitted that the petitioner was aware of the proceedings and had also obtained certificate from the Chartered Accountant on 27.02.2024, it cannot be said that the petitioner was unaware of the impugned order.

6. Having considered the submissions of the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondent, the Court is of the view that this is a fit case for quashing the impugned order and remitting



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back the case to the respondent to pass fresh orders on merits and in accordance with law as admittedly the demand pertains to July 2017 to March 2018 and the impugned order has been passed after the death of the petitioner's father. Since the petitioner may be liable to be taxed as legal representative/heir of his father in terms of under Section 93 of the respective GST enactments, the Court is of the view that the petitioner should be given a proper opportunity to defend the tax liability.

7. Under these circumstances, the impugned order is quashed and the matter is remitted back to the respondent to pass fresh orders on merits and in accordance with law.

8. The respondent is directed to serve a copy of the notice that preceded the impugned order dated 04.05.2023 to the petitioner within a period of 30 days from the date of receipt of a copy of this order. The impugned order, which stands quashed, shall be treated as addendum to the show cause notice to be furnished which formed the basis of the impugned order.



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9. It is expected that the petitioner will reply the show cause notice within a period of two months from the date of receipt of the show cause notice. The respondent shall, thereafter, endeavour to pass a fresh orders 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 be heard. The petitioner shall co-operate with the respondent.

Accordingly, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes / No
apd

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C.SARAVANAN, J.

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