IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.07.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.1085 & 1087 of 2022
& W.M.P.Nos.1143, 1145, 1146, 1147, 1148 & 1149 of 2022

1.R.Srividya

2.Kavitha

... Petitioners in both petitions

Vs.

1.The Appellate Deputy commissioner (ST)
Goods and Service Tax commercial Tax Building,
Dr Balasundaram Road coimbatore 641 018

2.The Assistant commissioner
State Goods and Service Tax Ramnagar Circle,
coimbatore

3.The assistant commissioner
STate Goods and Service Tax Gandhipuram Circle,
Coimbatore

4.The Assistant Commissioner
Central Goods and Service Tax Divison III Range IIIC
Coimbatore

5.The Principal commissioner
GST and central Excise
Coimbatore

6.R.Satyalakshmi alias Lakshmi

7.R. Balamurugan

... Respondents in both petitions

Common Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari,

Calling for the records pertaining to the impugned order passed by the 1st Respondent in A.P. No. 87 of 2021 dated 06.05.2021 and quash the same and further direct the 2nd respondent to cancel the GST registration bearing No. GSTN 33AWPL9568L1ZN issued in favour of the 6th Respondent

Calling for the records pertaining to the GST registration bearing No. GSTN 33AAWPL9568L1ZN issued in favour of the 6th Respondent and quash the same

For Petitioners
in both petitions : Mr.Hari Radhakrishnan

For Respondents
in both petitions : Mr.C.Harsha Raj
Spl. Govt. Pleader (taxes)
For R1 To R3
Mr.M.Santhanaraman
Senior Panel Counsel For R4 & R5
R6 & R7 - No Apperance

COMMON ORDER

These writ petitions have been filed challenging the impugned order passed by the 1st Respondent in A.P. No. 87 of 2021 dated 06.05.2021 and further, direct the 2nd respondent to cancel the GST registration issued in favour of the 6th respondent.

2. The learned counsel for the petitioners would submit that in these cases, the petitioners' father, who was the sole proprietor of M/s.Karpagam Aabarana Maligai, had died intestate on 14.08.2020, leaving behind two daughters-petitioners, wife-6th respondent and one son-7th respondent as successors to his property. Thereafter, on 24.10.2020, without the knowledge of the petitioners, a new GST Registration was obtained in favour of the 6th respondent.

3. He would also contend that aggrieved over the issuance of a new GST Registration in favour of the 6th respondent, an application was filed by the petitioners, however, the same was rejected. Thereafter, an appeal was preferred by the petitioner, however, the same was also

dismissed by the respondent vide order dated 06.05.2021. Therefore, now, the challenge was made against the impugned order passed by the respondent on 06.05.2021. Hence, these writ petitions.

4. Further, he would submit that a partition suit, in O.S.No.672 of 2020, was also filed before the I Additional District Court, Coimbatore, to decide the successor of the business, in which, a preliminary decree was passed vide order dated 05.06.2024. Earlier, vide order dated 25.04.2022, the I Additional District Court had appointed the 1st petitioner and the 6th respondent as Receivers and accordingly, from the aforesaid date, i.e., 25.04.2022, the 1st petitioner and the 6th respondent are carrying on the jewellery business and also filing the returns in their capacity as Receivers. The said returns were accepted by the respondent-Department. Therefore, he requests this Court to pass appropriate orders.

5. On the other hand, the learned Special Government Pleader appearing for the respondents would submit that the 1st petitioner and the 6th respondent, who are appointed as 'Receivers' by the I Additional District Court, had not faced any difficulties in filing the returns or

documents in their capacity as 'Receivers'. The said returns/documents were also accepted by the Department. However, now the petitioners are concerned with regard to the issuance of a new GST Registration in favour of the 6th respondent. Hence, he requests this Court to pass appropriate orders.

6. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents and also perused the entire materials available on record.

7. In the cases on hand, the petitioners' father, who was the sole proprietor of M/s.Karpagam Aabarana Maligai, had died intestate on 14.08.2020, leaving behind his two daughters-petitioners, wife-6th respondent and one son-7th respondent as successors to all his property and jewellery business. After the demise of petitioners' father, without the knowledge of the petitioners, a new GST Registration was obtained in favour of 6th respondent on 24.10.2020. Aggrieved over the same, an application was filed by the petitioners to cancel the said GST Registration, however, the same was dismissed by the respondent.

Thereafter, challenging the said dismissal order, an appeal was preferred by the petitioners, however, the same was also dismissed vide impugned order dated 06.05.2021.

8. In the meantime, a partition suit was also filed before the I Additional District Court, Coimbatore, whereby, the 1st petitioner and the 6th respondent are appointed as Receivers vide order dated 25.04.2022. Accordingly, from the aforesaid date, i.e., 25.04.2022, the 1st petitioner and the 6th respondent are carrying on the jewellery business and also filing the returns in their capacity as Receivers. The said returns were also accepted by the respondent-Department.

9. Further, it was submitted that in the said partition suit, a preliminary decree was passed vide order dated 05.06.2024 and the final decree is yet to be passed. In such case, if the final decree is passed by deciding with regard to the successor of business, the same will be taken into consideration for issuance of GST Registration by the Department and hence, the said issue cannot be decided by the respondent during the pendency of a partition suit.

10. In view of the above, it is clear that the issue with regard to the GST Registration will not be decided by the Department, unless and otherwise, any order is passed in the partition suit by the District Court with regard to the ownership of the jewellery business. Therefore, till the disposal of the said partition suit, the GST Registration, which was holding in the name of 6th respondent shall be considered as it is inherited from the petitioners' father.

11. Therefore, this Court does not find any merits in the present petitions and hence, the same are liable to be dismissed. Accordingly, these writ petitions are dismissed. No cost. Consequently, the connected miscellaneous petitions are also closed.

12. While dismissing the petitions, this Court grants liberty to the petitioners to approach the District Court and address all their grievances, in which case, the District Court shall decide all the issues, viz., ownership rights of the petitioners, continuation of GST Registration in the name of 6th respondent, etc., as expeditiously as possible.

01.07.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa

To

1. The Appellate Deputy commissioner (ST)
Goods and Service Tax commercial Tax Building,
Dr Balasundaram Road coimbatore 641 018

2. The Assistant commissioner
State Goods and Service Tax Ramnagar Circle,
coimbatore

3. The assistant commissioner
STate Goods and Service Tax Gandhipuram Circle,
Coimbatore

4. The Assistant Commissioner
Central Goods and Service Tax Divison III Range IIIC
Coimbatore

5. The Principal commissioner
GST and central Excise
Coimbatore

KRISHNAN RAMASAMY.J.,

nsa

W.P.Nos.1085 & 1087 of 2022
and W.M.P.Nos.1143, 1145, 1146, 1147, 1148 & 1149 of 2022

01.07.2025