



W.P.No.5079 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 17.02.2025

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THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.5079 of 2025&
W.M.P.Nos.5636 and 5637 of 2025

D.Kamalammal

... Petitioner

Vs.

The Deputy State Tax Officer 1,
Ponneri Assessment Circle,
No.32, Integrated Commercial Taxes Office
Complex, Elephant Gate bridge Road,
Chennai- 600 003.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records in order dated 29.04.2024 with Ref.No.GSTIN:33AFMPD817OP2ZY/2018-19 passed by the Respondent and to quash the same.

For Petitioner : Mr.P.Raj Kumar

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



W.P.No.5079 of 2025

ORDER

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This writ petition has been filed by the petitioner challenging the order of the Respondent dated 29.04.2024 and to quash the same.

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. The learned counsel for the petitioner would submit that the petitioner's husband was a works contractor under the name and style of **"P.Dhananjayalu-Contractor"** and he passed away in the year 2019. Further, he would submit that even before the death of the deceased no business activities were carried on due to his health reasons. While so, impugned order came to be passed on 29.04.2024 demanding tax along with interest and penalty for the Assessment Year 2018-2019.



W.P.No.5079 of 2025

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5. The learned counsel for the Petitioner further submitted that since the impugned order was passed against the dead person i.e., the Petitioner's husband the same is liable to be set aside. He further submitted that there are totally three Legal Heirs to the Petitioner's father and the Petitioner is ready and willing to file reply to the show cause notice on behalf of other two Legal Heirs, who are her sons and the same may be directed to be considered by the Respondent.

6. The learned Government Advocate (Taxes) appearing for the Respondent submitted that the Respondent was not aware about the death of the Petitioner's husband and that apart only after issuance of show cause notice as well as the reminder notice, impugned order came to be passed. However, she fairly submitted that if the petitioner files an affidavit informing the death of her husband, before the respondent along with reply to the show cause notice on behalf of other legal heirs, the respondent will consider the same and pass orders.



W.P.No.5079 of 2025

WEB COPY

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

8. In the case on hand, since the impugned order came to be passed against the Petitioner's husband who is no more, this Court is inclined to set aside the impugned order dated 29.04.2024. Accordingly, this Court passes the following order:-

(i) The impugned order dated 29.04.2024 is set aside and the matter is remanded to the Respondent for fresh consideration.

(ii) The petitioner is directed to file an affidavit informing about the death of the Petitioner's husband before the Respondent along with reply to the show cause notice dated 27.12.2023, within a period of three weeks from the date of receipt of a copy of this order.

(iii) On receipt of the same, the Respondent is directed to pass orders on merits and in accordance



WEB COPY



W.P.No.5079 of 2025

with law, after affording an opportunity of personal hearing to the Petitioner, as expeditiously as possible.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are also closed.

17.02.2025

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

The Deputy State Tax Officer-1,
Ponneri Assessment Circle,
No.32, Integrated Commercial Taxes Office
Complex, Elephant Gate bridge Road,
Chennai- 600 003.



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W.P.No.5079 of 2025

KRISHNAN RAMASAMY.J.,

arr

W.P.No.5079 of 2025
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