IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 26.03.2025
Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.10565 of 2025
and
W.M.P.Nos.11894, 11896 & 11901 of 2025

1. S.Rekha
2. S.Kavitha
3. V.Sudha
4. M.K.Nithish
5. M.K.Ganesh
   All five being the legal heirs of deceased
   Mr.M.K.Girish. ...Petitioners

Vs.

The Commercial Tax Officer,
Thirumullaivoyal Assessment Circle,
32, Room No.114 1st Floor, Division,
Integrated Commercial Taxes Offices Building,
Elephant Gate Bridge Road, Vepery,
Chennai – 600 003. ...Respondent

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records of the respondent in Ref.No.ZD330225272283M/20-21 dated 26.02.2025 and to quash the same as arbitrary.

For Petitioners : Mr.C.A.Ashok Kumar

For Respondent : Mr.C.Harsha Raj
Special Government Pleader (T)

Order

Heard Mr.C.A.Ashok Kumar, learned counsel appearing for the petitioners and Mr.C.Harsha Raj, learned Special Government Pleader (T) who takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order passed by the respondent dated 26.02.2025 and to quash the same.

3. The learned counsel for the petitioner would submit that Mr.M.K.Girish, who was the Proprietor of the Firm, named "M.K.M. & Sons" had passed away as early as on 25.02.2021 and though the death of said Mr.M.K.Girish was intimated to the respondent by way of online application dated 29.06.2022, however, all the notices, which culminated in the impugned order were issued in the name of the said deceased person.

The learned counsel also submitted that one of the petitioners, viz., M.K.Nithish, being the legal heirs of the deceased filed a reply, however, the respondent passed the impugned order and therefore, the petitioners are before this Court by way of present Writ Petition seeking to set aside the impugned demand.

3.1 The learned counsel assailed the impugned order by contending that the notices issued to a dead person and orders passed based on such notices are void ab initio and liable to be set aside, accordingly, prayed for setting aside the impugned order. The learned counsel also referred to the orders passed by this Court, in W.P.No.35411 of 2023 dated 19.12.2023 and W.P.No.14728 of 2024 dated 13.06.2024, wherein, in similar facts and circumstances of the case, the impugned orders were set aside.

4. The learned Special Government Pleader (T) for the respondent fairly submitted that this Court, in identical set of facts, was pleased to set aside the impugned orders passed by the respondent leaving it open to the respondent-Department to proceed against the legal heirs of the deceased.

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. On perusal of records, it is seen that the deceased, viz., Mr.M.K.Girish was an assessee on the files of the respondent under the provisions of Tamil Nadu Goods and Service Tax Act, 2017 and the said person died as early as on 25.02.2021, and though the same was intimated to the respondent-Department, however, the respondent has been continuously issuing notices in the name of the said deceased person and not stopping with that, also proceeded to raise the impugned demand against an non-existent person.

7. Thus, it is crystal clear the impugned order is an ex parte order, and suffers from violation of principles of natural justice and de hors the same, the notices issued to an assessee, who is no more and orders passed based on such notices are void ab initio and liable to be set aside. Hence, this Court is inclined to set aside the impugned order.

8. Accordingly, this Court is inclined to pass the following orders:-

i) The impugned order dated 26.02.2025 is set aside.

ii) The respondent is at liberty to proceed against the petitioners, who are the legal heirs of the deceased M.K.Girish, in which case, the petitioners shall file reply and participate in the proceedings.

9. In the result, the Writ Petition is allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

26.03.2025

sd
Index : yes/no
Neutral Citation : yes/no

To

The Commercial Tax Officer,
Thirumullaivoyal Assessment Circle,
32, Room No.114 1st Floor, Division,
Integrated Commercial Taxes Offices Building,

Elephant Gate Bridge Road, Vepery,
Chennai – 600 003.

Krishnan Ramasamy,J.,

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