IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.06.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.17045 of 2025
& W.M.P.Nos.19335 & 19936 of 2025

Tvl. Monarch Scientific Works
No 17 of 1, Sadullah Street, T. Nagar, Chennai
Tamil Nadu 600 017

... Petitioner

Vs.

The Deputy State Tax Officer- II
(also Known As Commercial Tax Officer)
Nandanam Assessment Circle, Mylapore
Taluk Office Buyilding, 2nd Floor, Chennai -
600 028.No 17 of 1, Sadullah Street, T. Nagar,
Chennai Tamil Nadu 600 017

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the files of the Respondent herein in order Ref. No. 33AAEPA4881H1ZZ /2019-20 dated 30th August, 2024 issued along with the summary of the order in form GST-DRC-07 vide reference no. ZD3308242963139 dated 30th August, 2024 of the Respondent for the tax period between April, 2019 to March, 2020

For Petitioner : Ms.S.Vishnupriya

For Respondent : Ms.K.Vasanthamala, GA

ORDER

This writ petition has been filed challenging the impugned order dated 30.08.2024 passed by the respondent.

2. Ms.K.Vasanthamala, learned Government Advocate, takes notice on behalf of the respondent. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3. The learned counsel for the petitioner would submit that in this case, the original proprietor of the petitioner firm was passed away on 29.05.2020. Thereafter, an application dated 21.01.2021 was filed for cancellation of GST Registration and the same was cancelled with retrospective effect on 31.05.2020. Thereafter, the petitioner has not visited the portal. Under these circumstance, the show cause notice was issued and subsequently, the impugned order has also been passed against one Avula Mallikarjun, who is a dead person. Hence, he would

contend that the said impugned order is non-est in law and the same is liable to be set aside.

4. Further, he would submit that now, the petitioner/ A.M.Shivakaarthick, who is one of the legal heir of the deceased, is willing to file reply to the show cause notice issued by the respondent on 20.05.2024. Hence, he requests this Court to pass appropriate orders

5. In reply, the learned Government Advocate appearing for the respondent would fairly admit that the notice was issued against the petitioner's father, who is a dead person. Hence, he requests this Court to pass appropriate orders.

6. Heard the learned counsel for the petitioner and the learned counsel for the respondents and also perused the materials available on record.

7. In the case on hand, admittedly, the petitioner's father was died on 21.05.2020. Thereafter, the show cause notice dated 20.05.2024 was issued and the impugned order dated 30.08.2024 was passed by the

respondent against the petitioner's father, who is a dead person.

8. Normally, an order, which was passed against a dead person, is non-est in law. In this case, subsequent to the demise of petitioner's father, the GST Registration was cancelled. Under these circumstances, the respondent has passed the impugned order, against a dead person and hence, the same cannot be enforced.

9. Further, the petitioner, who is son of the deceased, has undertake to file a reply to the show cause notice on behalf of all the legal heirs. Therefore, this Court is inclined to set aside the impugned order and remand the matter back to the respondent. Accordingly, this Court passes the following order:

> (i) The impugned order dated 30.08.2024 is set aside and the matter is remanded to the respondent for fresh consideration.
>
> (ii) The petitioner, in his capacity as a legal heir of the deceased, shall file their reply/objection along with the required documents, if any, for the show cause

notice dated 20.05.2024, within a period of two weeks from the date of receipt of copy of this order.

(iii) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice, by fixing the date of personal hearing, to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

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

04.06.2025

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

KRISHNAN RAMASAMY.J.,

nsa

To

The Deputy State Tax Officer- II
(also Known As Commercial Tax Officer)
Nandanam Assessment Circle, Mylapore
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