IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.16059 of 2025
and
W.M.P.Nos.18170 and 18172 of 2025

Mrs.Shahnaz ...Petitioner

Vs.

The State Tax Officer,(ST),
Office of the Commercial Tax Officer,
Mylapore Assessment Circle, South-1 Zone,
2nd Floor, Room No.250,
the Integrated Building for Commercial Taxes &
Registration Department, (South Tower),
Nandanam, Chennai-600035. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the Impugned Order reference No.ZD330824221328H dated 24.08.2024 passed by the Respondent and quash the said Impugned Order consequentially direct the Respondent to provide the Petitioner with an opportunity of fresh hearing.

For Petitioner : Mr.Inbaraj C

For Respondent : Ms.Amirthapoonkodi Dinakaran
Government Advocate (Taxes)

ORDER

Ms.Amirthapoonkodi Dinakaran, learned Government Advocate (Taxes), 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 dated 24.08.2024 passed by the respondent and to quash the same.

3. The learned counsel for the petitioner would submit that the petitioner's husband was a Proprietor of "***M/s.Mukeet Agency***" and he passed away on 29.05.2021. Further, he would submit that after the death of her husband, the petitioner surrendered the GST number to the respondent on 11.05.2025, pursuant to which the respondent passed an order on 20.06.2022, cancelling the GST registration of the petitioner with effect from 30.04.2022. While so, impugned order came to be passed on 24.08.2024, against the petitioner's husband demanding tax along with interest and penalty for the Assessment Year 2019-2020.

4. 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 the Petitioner is ready and willing to file reply to the show cause notice and the same may be directed to be considered by the Respondent.

5. 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 notices, 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,if any, the respondent will consider the same and pass orders.

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

7. An exparte order passed against the dead person is non est in law and therefore, the same cannot be enforced. Hence the said order is liable to be set aside.

8. In the case on hand, since the impugned order came to be passed against the Petitioner's husband who is no more, the impugned order passed by the respondent is not sustainable. Therefore, this Court is inclined to set aside the impugned order dated 24.08.2024. Accordingly, this Court passes the following order:-

> (i) The impugned order dated 24.08.2024 is set aside and the matter is remanded to the Respondent for fresh consideration.
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> (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 25.05.2024, 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 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.

30.04.2025

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Index : yes/no
Neutral Citation : yes/no

To

The State Tax Officer,(ST),
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Mylapore Assessment Circle, South-1 Zone,
2nd Floor, Room No.250,
the Integrated Building for Commercial Taxes &
Registration Department, (South Tower),
Nandanam, Chennai-600035.

Krishnan Ramasamy,J.,

arr

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