IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.06.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.15835 of 2025
& W.M.P.Nos.17903 & 17906 of 2025

Shahnaz

... Petitioner

Vs.

The State Tax Officer (ST),
Office of the Commercial Tax Officer,
Mylapore Assessment Circle, South I Zone,
2nd Floor, Room No.250,
The Integrated Building for Commercial Taxes
& Registration Department (South Tower),
Nandanam, Chennai 600 035.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order ref.No.ZD3312232601025 dated 29.12.2023 passed by the respondent and quash the same and consequentially direct the respondent to provide the petitioner with an opportunity of fresh hearing.

For Petitioner : Mr.G.Inbaraj

For Respondent : Ms.Amirta Poonkodi Dinakaran, Government Advocate

ORDER

This writ petition has been filed challenging the impugned order dated 29.12.2023 passed by the respondent.

2. Ms.Amirta Poonkodi Dinakaran, 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 petitioner's husband was passed away on 29.05.2021 and the demise of her husband was intimated to the Department. However, without considering the same, the show cause notice dated 30.09.2023 was issued and subsequently, the impugned order dated 29.12.2023 has also been passed against the petitioner's husband, who is a dead person.

Hence, he would contend that the said impugned order, which was passed against a dead person, is non-est in law and the same is liable to be set aside.

4. Further, he would submit that now, the petitioner, who is one of the legal heirs of the deceased, is willing to file reply to the show cause notice dated 30.09.2023 issued by the respondent. Hence, he requests this Court to pass appropriate orders

5. In reply, the learned Government Advocate appearing for the respondent has confirmed the submissions made by the petitioner and he has fairly admitted that the impugned order was passed against the petitioner's husband, 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 Government Advocate for the respondents and also perused the materials

available on record.

7. In the case on hand, the petitioner's husband was died as early as on 29.05.2021 and the same was intimated to the Department. In spite of the same, a show cause notice dated 30.09.2023 was issued and the impugned order dated 29.12.2023 was passed by the respondent against the petitioner's husband, who is a dead person.

8. As rightly contended by the petitioner, an order, which was passed against a dead person, is non-est in law. In this case, the demise of the petitioner's husband was duly intimated to the respondent. When such being the case, the respondent was supposed to have issued show cause notice to the legal heirs of the deceased. However, without doing so, they had passed the impugned order, against a dead person and hence, the same cannot be enforced.

9. Further, the petitioner, who is wife of the deceased, undertakes 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 29.12.2023 is set aside and the matter is remanded to the respondent for fresh consideration.

(ii) The petitioner, in her 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 30.09.2023, 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.

02.06.2025

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

To

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KRISHNAN RAMASAMY.J.,

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