IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.06.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.18544 of 2025
& W.M.P.Nos.20812 & 20813 of 2025

M/s.NAGARAJA ENGINEERING WORKSHOP
Rep by N.Saraswathi, Nagarajan.M (Since Dead)
3 /28 Karundhevanpalayam Nanjai
Uttukuli Erode-638104

... Petitioner

Vs.

Deputy State Tax Officer
Kodumudi Assessment circle, commercial Taxes
Building, North Pradhakshnam Road,
Karur- 639 001.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call the records in reference No.ZD331223259612N dated 29.12.2023 for the Tax period between Jul 2017- March 2018 passed by the respondent and quash the same

For Petitioner : Mr.R.Swarnavel

For Respondent : Ms.P.Selvi, GA

ORDER

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

2. Ms.P.Selvi, 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 15.05.2020. Subsequently, the GST Registration was cancelled on 21.07.2021 based on the voluntary request made by the petitioner. Thereafter, the petitioner had not visited the GST common portal. Under these circumstance, the show cause notice was issued and subsequently, the impugned order has also been passed against one Nagaraj, 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, 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 13.09.2023. 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 Government Advocate 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 15.05.2020. Thereafter, the show cause notices in DRC-01A dated 13.09.2023 and DRC-01 dated 03.10.2023 were issued and the impugned order dated 29.12.2023 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 based on the voluntary request made by the petitioner. Under these circumstances, the respondent has passed the impugned order, against a dead person and hence, the same cannot be enforced.

9. Further, now 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 29.12.2023 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 13.09.2023 & 03.10.2023, 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.

04.06.2025

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

KRISHNAN RAMASAMY.J.,

nsa

To

Deputy State Tax Officer
Kodumudi Assessment circle, commercial Taxes
Building, North Pradhakshnam Road,
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