IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-09-2025

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

WP No. 17611 of 2020 &
W.M.P.no.21836 of 2020

1. Chennammal

2. Tamilarasi

3. V. Arumugam

4. V. Shanmugam

Petitioner(s)

Vs

1. The Joint Director General of
Foreign Trade
Office of the Joint Director of Foreign
Trade 38-39, Whites Road Royapettah,
Chennai 600 014

2.The Secretary to Government
Industries Department (MME1) Fort St.
george Chennai 09

3.The District Collector
Dharmapuri District, Dharmapuri

4.The Tahsildhar
Harur Taluk Dharmapuri District,
Dharmapuri

5.The Village Administrative officer
Harur Talu, Dharmapuri District

Respondent(s)

PRAYER

Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandaus to call for the records of the fourth respondent in Na.Ka.No.4947/2016/A-4 dated 21.10.2020 and the connected distraint order issued by the fourth respondent and the same have to be quashed with a direction directing the respondents to issue sufficient notice and opportunity for hearing before taking any steps in executing the adjudication order dated 19.11.2020.

For Petitioner(s):	Mr.T.Thiageswaran for Mr.E. Balaji Mr.P. Neethi Kumar
For Respondent(s):	Mr. V.Ashok Kumar for R1 CGSC Mr.P.Ganesan for R2 to R5 Additional Government Pleader

ORDER

This Petition has been filed to call for the records of the fourth respondent in Na.Ka.No.4947/2016/A-4 dated 21.10.2020 and the connected distraint order issued by the fourth respondent and the same have to be quashed with a direction to the respondents to issue sufficient notice and opportunity for hearing before taking any steps in executing the adjudication order dated 19.11.2020.

2. According to the petitioners, they are the legal heirs of one G.Vellaimurugan, the proprietor of M/s Sri Balaji Granites, Harur, hereinafter referred to as 'company' and the said company was established in the year 1995 and obtained lease for quarrying in the government lands situated at Thiruvannamalai District and has been carrying on the quarry work till the year 2005. During the year 2003, the said Vellaimurugan obtained Export Promotion Capital Goods license from the 1st respondent vide license no.0430001040 dated 27.03.2003 at 5% Net Foreign Exchange basis, customs duty, EPCG scheme for CIF value of Rs.33 Lakhs for import of capital goods for the purpose of

quarrying operations with an obligation of the export of rough granite blocks to be fulfilled within a period of eight years from the date of issue of the licence. Thereafter, the said Vellaimurugan requested permission to transport the colour granite from the 2nd respondent, however, the same was not granted. Aggrieved over the same, the other quarry owners have filed W.P.No.28522 of 2005 sought an interim injunction restraining the 2nd respondent and the District Collector, Thiruvannamalai from interfering with the right to quarry and transport the granites. An interim order was granted on 06.09.2005 and inspite of the same, the 2nd respondent refused to grant permission to transport the coloured granite. The 1st respondent on 19.11.2010 has passed an adjudication order under Section 11(2) of Chapter IV of Foreign Trade (Development and Regulation) Act, 1992 imposed a penalty of Rs.31,38,086/- for guilty of violation of the conditions of the licence dated 27.03.2003. Further, out of 95 quarry owners, the said Vellaimurugan alone was not granted the permission due to the political reasons by the then ruling party. While the matter stood thus, the said Vellaimurugan died at the age of 74 years on 13.05.2017. The petitioners received a communication dated 21.10.2020 from the 4th respondent under Revenue Recovery Act for the recovery of the amounts due under Section 11(2) of Chapter IV of Foreign trade (Development and Regulation) imposed by the 1st respondent. When no estate of the deceased was passed on to the petitioners after the death of the deceased Vellaimurugan, the respondents are not entitled to recover the penalty imposed vide the adjudication order dated 19.11.2010 by the 1st respondent from the petitioners. The petitioners were not involved in the business of the deceased Vellaimurugan and they do not have any knowledge about the adjudication order dated 19.11.2010 passed by the 1st respondent and neither the opportunity nor the notice was issued to the petitioners, thereby pleaded to allow the petition. Further, in support of his contention, the learned counsel appearing for the petitioners relied on the **Judgment of the Hon'ble Supreme Court in Civil Appeal No.5802 of 2005 dated 29.07.2015 reported in MANU/SC/0801/2015 [Shabina Abraham & Ors Vs. Collector of Central Excise and Customs]** and the Judgment of this Court reported in **Manu/TN/1912/2025 [S.Hidayathullah and Others Vs. The Commissioner of Customs, Airport Customs House and Ors.]** in C.M.A.Nos.3581 and 3582 of 2014.

3. Per contra, the learned Central Government Standing Counsel appearing for the 1st respondent would submit that as per the letter dated 02.07.2012 sent by the said Vellaimurugan addressed to the 1st respondent it is clear that he has indicated that his son, viz., 3rd petitioner will attend personal hearing before the 1st respondent, but none of them appeared for the hearing, therefore, the contention of the petitioners that they are not aware of the proceedings before the 1st respondent is false. Further, it was incumbent upon the legal representatives of the said Vellaimurugan to intimate about his death to the respondents. Further, the contention of the petitioners that no estate of the deceased was passed on the petitioners after the death of the deceased Vellaimurugan, if it is so, the petitioners can prove their bonafide by submitting their property details, which they possess before and after the demise of the deceased.

4. On the other hand, the learned Additional Government Pleader appearing for the respondents 2 to 5 would submit that based on the kist receipts and the adangal of the Harur taluk, it can be seen that the family of

late.Vellaimurugan had been managing his properties and agricultural lands. Further, from the records, it is seen that the late Vellaimurugan had made a representation dated 15.09.2005 to the 2nd respondent for the renewal of the transport permit for the transport of multicolour granite blocks in pursuant to the order of this Court in W.P.No.28522 of 2005, but the said representation was rejected on the ground that the quarrying licence was to be terminated on 24.09.2005. Further, the said Vellaimurugan obtained quarrying permission under Rule 39 of the Tamilnadu Minor Mineral Concession Rules, 1959 and the same came to be deleted by the Tamilnadu Legislature vide G.O.(Ms) No.91 Industries (MMBI) Department dated 27.06.1996, therefore, the quarrying licence cannot be extended.

5. Further, it is contention on the side of the respondents 2 to 5 that due to the contraventions carried out by the late Vellaimurugan, the 1st respondent had incurred a revenue loss to the tune of Rs.31,38,086/- and the same came to the notice of the 3rd respondent only in the year 2014. That apart, the DRO through letter dated 21.10.2020 directed the 4th respondent to hasten up the recovery of

the revenue arrears against the late Vellaimurugan and his legal heirs. The 4th respondent issued notice dated 21.10.2020 under Form I r/w Section 8 of the Tamilnadu Revenue Recovery Act. The 1st petitioner in her reply letter dated 28.10.2020 requested the 4th respondent to provide her with sufficient time to pay the revenue arrears after consultation with her children, while so, the petitioners have filed the present petition and obtained interim stay by concealing certain crucial facts, thereby pleaded to dismiss the petition.

6. Heard the learned counsel on either side and perused the documents placed on record carefully.

7. Admittedly, the facts in the present case is not in dispute. The 1st petitioner's husband, viz., Vellaimurugan is a proprietor of M/s Balaji Granites, Harur, he obtained a quarry licence from the State Government from the year 1995 till 2005 and he also obtained export licence from the 1st respondent for exporting the alleged granite to the foreign countries and EPCG licence was granted in favour of the 1st petitioner's husband in the year 2003. That apart, for

non-payment of the licence fees, the 1st respondent passed an adjudication order dated 19.11.2010 and imposed a penalty of Rs.31,38,086/- .

8. Further, it could be seen that the penalty was imposed in the year 2010, however, the 1st respondent did not take any action to recover the amount from the deceased person till the year 2017. Though the 3rd respondent after conducting a thorough enquiry, through proceedings dated 01.10.2014 (recovery order) directed the District Revenue Officer, Dharmapuri and the 4th respondent to collect the revenue arrears and to remit the same, impugned order did not reveal the said particulars. It is only a internal communication between the 3rd and 4th respondent. Except the said internal communication between the 3rd and 4th respondent, no steps have been taken regarding the recovery of penalty amount under the Revenue Recovery Act. In fact, after obtaining the licence in the year 2003, the 1st petitioner's husband attempted to export the granite to the foreign country, which was prevented by the 2nd respondent, hence the deceased filed a Writ Petition. Though interim stay was granted, the order was not implemented and admittedly, the deceased, Vellaimurugan had not exported any

coloured granite to the foreign countries for fulfilling the condition imposed by the 1st respondent and subsequently, died.

9. Besides the above, it is relevant to note that the decision rendered by the Hon'ble Apex Court squarely applicable to the present case on hand and the relevant paragraph are extracted hereunder :

"30. It remains to consider a judgment cited by learned counsel for the appellants, namely, Commissioner of Central Excise, Bangalore –III v. Dhiren Gandhi, 2012 (281) E.L.T. 64 (Karnataka). This judgment is correct in its conclusion that while interpreting the provisions of the Central Excises and Salt Act, legal heirs who are not the persons chargeable to duty under the Act cannot be brought within the ambit of the Act by stretching its provisions. To the extent that this judgment holds what is set out hereinbelow, it is correct:-

> *"We do not find any provision in the Act which foists any such liability in the case of intestate succession. In other words, there is no provision which empowers the authorities to recover due from a deceased assessee by proceeding against his legal heirs. The way section 11 and 11A are worded, it is amply clear, the legislature has consciously kept away the legal heirs from answering to liabilities under the Act." (at page 69)*

31. The impugned judgment in the present case has referred to Ellis C. Reid's case but has not extracted the real ratio contained therein. It then goes on to say that this is a case of short levy which has been noticed during the lifetime of *the deceased and then goes on to state that equally therefore legal representatives of a manufacturer who had paid excess duty would not by the self-same reasoning be able to claim such excess amount paid by the deceased. Neither of these reasons are reasons which refer to any provision of law. Apart from this, the High Court went into morality and said that the moral principle of unlawful enrichment would also apply and since the law will not permit this, the Act needs to be interpreted accordingly. We wholly disapprove of the approach of the High Court. It flies in the face of first principle when it comes to taxing statutes. It is therefore necessary to reiterate the law as it stands. In Partington v. A.G., (1869) LR 4 HL 100 at 122, Lord Cairns stated:*

> *"If the person sought to be taxed comes within the letter of the law he must be taxed, however great the hardship may appear to the judicial mind to be. On the other hand, if the Crown seeking to recover the tax, cannot bring the subject within the letter of the law, the subject is free, however apparently within the spirit of law the case might otherwise appear to be. In other words, if there be admissible in any statute, what is called an equitable, construction, certainly, such a construction is not admissible in a taxing statute where you can simply adhere to the words of the statute".*

32. In Cape Brandy Syndicate v. IRC, (1921) 1 KB 64 at 71, Rowlatt J. laid down:

> *"In a taxing Act one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no presumption as to tax. Nothing is to be read in, nothing is to be implied. One can only look fairly at the language used."*

33. This Court has, in a plethora of judgments, referred to the aforesaid principles. Suffice it to quote from one of such judgments of this Court *in Commissioner of Sales Tax Commissioner, Uttar Pradesh v. Modi Sugar Mills, 1961 (2) SCR 189 at 198:-*

> *"In interpreting a taxing statute, equitable considerations are entirely out of place. Nor can taxing statutes be interpreted on any presumptions or assumptions. The court must look squarely at the words of the statute and interpret them. It must interpret a taxing statute in the light of what is clearly expressed; it cannot imply anything which is not expressed; it cannot import provisions in the statute so as to supply any assumed deficiency."*

34. We are, therefore, of the view that this appeal must be allowed and the judgment of the High Court of Kerala is, accordingly set aside and that of the learned Single Judge restored."

Accordingly, the impugned order is not sustainable and the same is liable to be set aside. The present writ petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

11-09-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No
ssd
To
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Office of the Joint Director of Foreign Trade 38-39, Whites Road Royapettah,
Chennai 600 014

2.The Secretary to Government
Industries Department (MME1) Fort St.
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M.DHANDAPANI J.

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