IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 20036 of 2025
AND
WMP NO. 22583 OF 2025,WMP NO. 22585 OF 2025

S.Sudharsan,
Son and Legal heir of Late Mr.Arumuga Nadar Soundararajan,
Proprietor of Tvl. Ashoka Plastic Products,
Old No.16, New No.6,Lake View Road Extension,
West Mambalam, Chennai 600 033.

Petitioner(s)

Vs

The State Tax Officer,
Ashok Nagar Assessment Circle,
No.1, Greams Road, Annex Building,
5th Floor, PAPJM Building,
Chennai-600 006.

Respondent(s)

PRAYER:-Writ Petitioner filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the impugned proceedings of the respondent in Reference No 33AALPS5134J1ZH/ 2020-

2021 dated 20.02.2025 and the connected order dated 20.02.2025 passed under section 73 of the CGST/TNGST Act,2017 and the summary of the order in Form GST DRC-07 dated 20.02.2025 in Reference No.ZD330225195533F and quash the impugned orders as passed contrary to the provisions of the CGST/TNGST Act and also in contravention of the principles of natural justice.

For Petitioner(s): Mr.P Rajkumar

For Respondent(s): Mrs.K.Vasanthamala, Government Advocate (t)

ORDER

This writ petition has been filed by the petitioner challenging the impugned assessment order dated 20.02.2025, passed by the respondent relating to the Financial Year 2020-2021.

2.Mrs.K.Vasanthamala, learned Government Advocate (Taxes), takes notice on behalf of the respondents.

3.By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

4.Learned counsel for the petitioner would submit that the petitioner's late father Arumuga Nadar Soundararajan, who was the proprietor of M/s.Ashoka Plastic Products died on 06.05.2021. After his father's demise, the petitioner decided to discontinue the business and filed application for cancellation of the GST registration certificate and the registration was cancelled with effect from 26.07.2023. However, on 25.11.2024, the respondent issued the show cause notice in the name of the petitioner's father proposing a demand and thereafter, issued three reminders in this regard. Subsequently the respondent passed the impugned assessment order dated 20.02.2025 in the name of the dead person. He would further submit that since the show cause notice and the reminders were uploaded in the GST Portal Tab, the petitioner was not aware of the same. Therefore, he prayed to set aside the impugned assesment order with a directions to permit the petitioner to file their reply on behalf of the other two leagl heirs and provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

5.Learned Government Advocate appearing for the respondent would fairly submit that the impugned order has been passed against the dead person and therefore, the matter may be remanded back for fresh consideration.

6.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the repondent and perused the materials available on record.

7.Considering the submissions made by the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondent, it is evident that the petitioner's father died on 06.05.2021 and thereafter, the petitioner discontinued the business and the GST registration was also cancelled with effect from 26.07.2023. However, the show cause notice relating to the Financial Year 2020-2021 was issued in the name of the petitioner's late father and subsequently, the impugned assessment order also passed against the dead person. An *ex parte* 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. Hence, the impugned assessment order is liable to be set aside. Accordingly, this Court passes the following orders:-

> "(i) The impugned assessment order dated 20.02.2025 is set aside and the matter is remanded to the respondent for fresh consideration.
>
> (ii) The petitioner who is son of the deceased undertakes to file reply to the show cause notice dated 25.11.2024 on behalf of the other two legal heirs.
>
> (iii) The petitioner is directed to file their reply/objection within a period of four weeks from the date of receipt of a copy of this order.
>
> (iv) 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."

8.With the above directions, the writ petition is disposed of. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

06-06-2025

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

To

The State Tax Officer,
Ashok Nagar Assessment Circle,
No.1, Greams Road, Annex Building,
5th Floor, PAPJM Building,
Chennai-600 006.

KRISHNAN RAMASAMY J.

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