IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14-07-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 25473 of 2025
AND
WMP NO. 28629 OF 2025,WMP NO. 28631 OF 2025

Narendra Kumar.N
Legal Heir of late Mrs. Vasuki,
No. 5/170,Kamaraj Nagar Colony,
Salem, Tamil Nadu – 636 014.

Petitioner(s)

Vs

The Assistant Commissioner ST,
Ayyothyapattinam Assessment Circle,
Integrated Commercial Tax Building,
Pitchards Road, Hasthampatti,
Salem – 636 007.

Respondent(s)

PRAYER:-Writ Petition filed under article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, calling for the records in GSTIN No 33ACSPV0457A1ZM/2020-21 on the files of the Respondent and quash the impugned order dated 02-05-2025 with the reference no. ZD3305250101523 for the FY 2020-21 as arbitrary and void.

For Petitioner(s): Mr.R.Suryaa

For Respondent(s): Mr.T.N.C.Kaushik
Addl. Govt. Pleader (taxes)

ORDER

This writ petition has been filed by the petitioner challenging the impugned assessment order dated 02.05.2025, passed by the respondent relating to the Financial Year 2020-21.

2.Mr.T.N.C.Kaushik, learned Additional Government Pleader (Taxes), takes notice on behalf of the respondent.

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 after the demise of the petitioner's mother viz., Mrs.Vasuki, the petitioner had requested for cancellation of his mother's GST registration and the registration was cancelled vide order dated 08.09.2021, with effect from 21.05.2021. However, on 23.11.2024, the respondent issued the show cause notice in the name of the petitioner's mother proposing a demand and thereafter, issued three reminders in this regard. Subsequently, the respondent passed the impugned assessment order dated 02.05.2025 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 assesement order with a directions to permit the petitioner to file their reply on behalf of the other leagl heirs and provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

5.Learned Additional Government Pleader 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 Additional Government Pleader 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 Additional Government Pleader appearing for the respondent, it is evident that the petitioner's mother died on 21.05.2021 and thereafter, at the request of the petitioner, the GST registration of the petitioner's mother was also cancelled with effect from 21.05.2021. However, the show cause notice relating to the Financial Year 2020-2021 was issued in the name of the petitioner's late mother 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 02.05.2025 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 23.11.2024 on behalf of the other 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.

14-07-2025

rst

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

The Assistant Commissioner ST,
Ayyothyapattinam Assessment Circle,
Integrated Commercial Tax Building, Pitchards Road,
Hasthampatti, Salem – 636 007.

KRISHNAN RAMASAMY J.

rst

WP No. 25473 of 2025

AND

WMP NO. 28629 OF 2025,

WMP NO. 28631 OF 2025

14-07-2025