IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.07.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.26287 of 2025
& W.M.P.Nos.29589 & 29591 of 2025

Adhimoorthy Villiyanur Rangaramanujam Balasubramani,
[Trade Name: A.V.R.Balasubramani Sons],
Rep. by his wife Mrs.A.V.B.Janani,
No.5, Thiruvallure Main Road, Gandhinagar,
Pammadukulam Redhills, Ponneri C, Chennai - 600 052.

... Petitioner

Vs.

Commercial Tax Officer,
Cholavaram: Tiruvallur:
Tiruvallur: Tamil Nadu. ... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of Order of Assessment in DRC - 07 bearing Reference No:ZD331223094058I in GSTIN/ID: 33AFPPB3628F1ZQ/JUL 2017- MAR 2018 dated 14.12.2023 passed by the respondent and to quash the same.

For Petitioner : Mr.R.Ganesh Kanna

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

ORDER

This writ petition has been filed challenging the impugned order dated 14.12.2023 passed by the respondent.

2. Mrs.K.Vasanthamala, learned Government Advocate, takes notice on behalf of the respondent in both writ petitions. By consent of the parties, these two main writ petitions are 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 is the proprietor, who has filed a returns for the assessment year 2017-18. This being the case, the petitioner's husband died on 02.04.2021. Thus, the petitioner applied for cancellation of GST Registration on 09.02.2022 and the same was cancelled on 16.02.2022. But, the respondent herein issued a show

cause notices dated 22.06.2023 & 12.07.2023 followed by two reminders dated 25.08.2023 and 03.10.2023, for which the petitioner sent a reply dated 29.06.2023, intimating the death of her husband. Since the registration of the petitioner's firm was cancelled, there was no purpose to keep checking the GST portal for receipt of any notices. Hence, the petitioner has not filed any reply. Under these circumstances, the impugned order came to be passed by the respondent on 14.12.2023. Hence, this writ petition.

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 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 had 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 appearing for the respondent and also perused the materials available on record.

7. In the case on hand, the petitioner's husband was died as early as on 02.04.2021 and the same was intimated to the Department. In spite of the same, show cause notices were issued and the impugned order dated 14.12.2023 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 14.12.2023 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, within a period of four weeks from the date of receipt of copy of this order.
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> (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.

With the aforesaid directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

23.07.2025

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

To:

Commercial Tax Officer,
Cholavaram: Tiruvallur:
Tiruvallur: Tamil Nadu.

KRISHNAN RAMASAMY.J.,

vm

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