IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.07.2025

CORAM
THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.26293 of 2025
& W.M.P.Nos.29609 & 29614 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.

Assistant Commissioner,
Cholavaram: Tiruvallur:
Tiruvallur: Tamil Nadu. ... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the Notice in Form GST SPL-03 bearing Reference No.ZD3306252141020 dated 20.06.2025 issued under Section 128A by the respondent and to quash the same as arbitrary and illegal and to further direct the respondent to give credit to the tax payment of Rs.1,81,786/- paid by the petitioner on 21.03.2025 under the waiver scheme for the Assessment Year 2018-19.

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 20.06.2025 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 2018-19. 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 the show cause notices dated 24.06.2023 & 06.07.2023 followed by reminder dated 13.03.2024, for which the petitioner sent a reply dated 29.06.2023, intimating the death of her husband. Under these circumstances, without considering the reply, the assessment order came to be passed by the respondent on 27.03.2024 against the dead person. In order to settle the tax arrears for the Assessment Year 2018-19 under the Waiver Scheme, the petitioner made an application for waiver of interest or penalty or both under Section 128A in Form GST SPL-02 and also paid a sum of Rs.1,81,786/- being the tax arrears alone on 21.03.2025. However, the respondent issued a notice dated 20.06.2025 against the petitioner's husband, who is a dead person to show cause as to why the application should not be rejected as being ineligible for the waiver scheme. Challenging the same, this writ petition has been filed by the petitioner.

4. Further, he would submit that without considering the fact that the petitioner has paid a sum of Rs.1,81,786/- being the tax arrears under the waiver scheme, the respondent issued a show cause notice dated

20.06.2025 against a dead person, proposing to decline the application made under waiver scheme, which is illegal and unsustainable in law. Hence, he prayed this Court to set aside the impugned notice dated 20.06.2025.

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 notice was issued 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 assessment order was

passed on 27.03.2024 by the respondent against the petitioner's husband, who is a dead person.

8. Thereafter, the petitioner has filed an application and also paid a sum of Rs.1,81,786/-, towards tax arrears for the Assessment Year 2018-19 under the waiver scheme. However without considering the payment made by the petitioner on 21.03.2025, the respondent had issued a notice dated 20.06.2024 against a dead person, proposing to decline the application made under waiver scheme, which is not sustainable in law.

9. Considering the payment made by the petitioner and the impugned notice was issued by the respondent against the dead person, this Court is inclined to set aside the said impugned notice. Accordingly, this Court passes the following order:-

(i) The impugned notice dated 20.06.2025 passed by the respondent is set aside.

(ii) The respondent is directed to issue fresh notice to the petitioner, who is one of the legal heirs of the deceased proprietor, 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:

Assistant Commissioner,
Cholavaram,
Tiruvallur,
Tamil Nadu.

KRISHNAN RAMASAMY.J.,

vm

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