IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-08-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 29600 of 2025
AND
WMP NO. 33166 OF 2025,WMP NO. 33167 OF 2025

Tvl.A.Manoharan (Deceased),
Prop, Marikanthai Angalamman Rod Works,
Rep By His Legal Heir M.Maheswari
5/1369a, Gandhi Nagar II Colony,
Dharapuram Road, Udumalpet 642 126.

Petitioner(s)

Vs

The Deputy State Tax Officer - 1,
Udumalpet (North) Circle,
144-b Kalpana Road, Chithrakoodam,
Udumalpet - 642 126.

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 of the respondent in his proceedings in ARN Case Id AD331124079122J/Ref.No.ZD331124222840X/GSTIN33BVIPMO188F1ZN/

2020/21 dated 18.02.2025 and quash the same as illegal.

For Petitioner(s): Mr.S.Ramanathan

For Respondent(s): Mr.V.Prasanth Kiran,
Government Advocate (taxes)

ORDER

This Writ Petition has been filed by the petitioner challenging the impugned assessment order dated 18.02.2025, passed by the respondent.

2.Mr.V.Prashanth Kiran, learned Government Advocate (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 the Proprietor of the petitioner's firm passed away on 14.10.2022. The legal heirs of the petitioner informed the same to the respondent and made an application for cancellation of

GST registration on 21.11.2022. Accordingly, the registration was cancelled vide order dated 23.11.2022 with effect from 23.10.2022. However, after the cancellation of GST registration, the respondent has issued DRC-01 on 25.11.2024, against the dead person stating that the petitioner has availed excess ITC in GSTR 3B and proposed to levy a tax of Rs.6,47, 019/- with interest and penalty. Since the petitioner has no obligation to access the portal after the GST registration, there is no possibility to file their reply to the show cause notice. The respondent had confirmed the proposals made in the said show cause notice vide order dated 18.02.2025 against the dead person. Subsequently a recovery notice also issued on 27.06.2025.

5.He would further submit that the petitioner came to know about the impugned proceedings only when they received the recovery notice from the respondent office. The respondent has failed to consider the fact that the proprietor of the firm expired on 14.10.2022, though it was informed to them and proceed to pass the impugned order against the dead person, which is unsustainable and hence, prayed to set aside the impugned order directing the respondent to permit the petitioner to file reply on behalf of other legal heirs and provide an opportunity of personal hearing so that the petitioner would be able to substantiate their case.

6.Learned Government Advocate appearing for the respondent would fairly submit that since the impugned order has been passed against the dead person, the same may be remanded back to the respondent for fresh consideration.

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

8.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 proprietor of the firm had expired on 14.10.2022 and the same was informed to the respondent and the application for cancellation of GST registration was also filed by the legal heirs of the proprietor. Accordingly, the GST registration was also cancelled by the respondent with effect from 23.10.2022 vide order dated 23.11.2022. However, without taking note of those facts, the respondent had issued show cause notice dated 25.11.2024 against the dead person and subsequently, confirmed the proposals made in the show cause notice vide order dated 18.02.2025, which 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 18.02.2025 is set aside and the matter is remanded to the respondent for fresh consideration.
>
> (ii) The petitioner/wife of the deceased undertakes to file reply to the show cause notice dated 25.11.20244 on behalf of the other legal heirs by getting consent from them.
>
> (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."

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

11-08-2025

rst

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

To

The Deputy State Tax Officer - 1,
Udumalpet (North) Circle,
144-b Kalpana Road, Chithrakoodam,
Udumalpet - 642 126.

KRISHNAN RAMASAMY J.

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