IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 26.08.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.Nos.32310, 32315 & 32319 of 2025
and
W.M.P.Nos.36252, 36254, 36259, 36260,
36264 & 36265 of 2025

Mr.J.Ganeshmoorthy ...Petitioner in all W.ps.

Vs.

1. The Deputy Commercial Tax Officer,
Office of the Assistant Commissioner (ST)
Ward-D,Block-30, Union Bank 1st Floor,
Melkrishnapuram, Ambur- 635 802.

2. The Deputy State Tax Officer,
Office of the Assistant Commissioner (ST)
Ward-D,Block-30, Union Bank 1st Floor,
Melkrishnapuram, Ambur- 635 802.
...Respondents 1 and 2 in W.P.Nos. 32310 & 32315 of 2025

3. The Commercial Tax Officer,
Office of the Assistant Commissioner (ST)
Ward-D,Block-30, Union Bank 1st Floor,
Melkrishnapuram, Ambur- 635 802.

4. The State Tax Officer,
Office of the Assistant Commissioner (ST)
Ward-D,Block-30, Union Bank 1st Floor,
Melkrishnapuram, Ambur- 635 802.

...Respondents 1 and 2 in W.P.No. 32319 of 2025

Prayer in W.P.No.32310 of 2025:-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records pertaining to the impugned order vide DRC-07 issued in Ref.No.ZD330824240042U dated 27.08.2024 by the first respondent for the assessment year 2019-20 and to quash the same.

Prayer in W.P.No.32315 of 2025:-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records pertaining to the impugned order vide DRC-07 issued in Ref.No.ZD331124303653W dated 29.11.2024 by the first respondent for the assessment year 2017-18 and to quash the same.

Prayer in W.P.No.32319 of 2025:-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records pertaining to the impugned order vide DRC-07 issued in Ref.No.ZD330624345711J dated 28.06.2024 by the first respondent for the assessment year 2019-20 and to quash the same.

For Petitioner in all W.Ps. : Mr.G.Derrick Sam

For Respondents in all W.Ps. : Mr.C.Harsha Raj
Special Government Pleader (T)

Common Order

Heard Mr.G.Derrick Sam learned counsel appearing for the petitioner and Mr.C.Harsha Raj, learned Special Government Pleader (T) who takes notice on behalf of the respondents. With consent, the Writ Petitions are taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the orders passed by the first respondent dated 27.08.2024, 29.11.2024 and 28.06.2024 for the assessment years 2019-20 and 2017-18 and to quash the same.

3. Mr.G.Derrick Sam, learned counsel appearing for the petitioner would submit that petitioner's Father, started a Proprietorship Firm in the year 1975; under the name and style, "Tvl.Gopi Engg Works" that after the demise of the petitioner's father, the petitioner filed an application for cancellation of GST registration, who stood in the name of the deceased father, pursuant to which, the GST registration was cancelled on

22.05.2021; that subsequent to the death of the petitioner's father, the petitioner took over the business and applied for fresh GST registration in his favour and the petitioner was also allotted with fresh registration; that but, in respect of the alleged tax due for the subject period, the first respondent has issued show cause notices in the name of the petitioner's deceased father via. the Portal, which was unnoticed by the petitioner, however, the first respondent passed impugned orders by confirming the demand raised in the show cause notices and challenging the said orders the present Writ Petitions are filed.

3.1 It is the contention of the learned counsel for the petitioner that kartha, viz., the petitioner's father had passed away on 09.09.2020, thereafter, the GST registration was cancelled w.e.f. 22.05.2021, but, the first respondent without any application of mind, issued show cause notices issued against a deceased person and also passed the impugned orders which is non-est in law. However, it is fairly submitted by the learned counsel for the petitioner that in a Hindu Undivided Family (HUF), if the Kartha had passed away, the person, who is senior next to such person, will become the Kartha in the place of erstwhile Kartha (since deceased) and in the event, any demand has to be settled by the erstwhile Kartha (since deceased), then, the present Kartha has to settle such claim/demand. Therefore, it is submitted that, the petitioner, being the next Kartha of the HUF, is ready and willing to contest the issue before the Assessing Officer by depositing 10% of the disputed tax, in the event the impugned orders are set aside and the matters are remitted back to the respondent-Authority for fresh consideration and thus, prays for appropriate orders.

4. Mr.C.Harsha Raj, learned Special Government Pleader for respondents would submit since the petitioner has voluntarily come forward to deposit 10% of the disputed tax in the event, the impugned order is set aside, the prayer sought for by the petitioner may be considered and appropriate orders may be passed.

5. I have given due consideration to the submissions made on either side and perused the materials available on record.

6. In the present case, show cause notices were issued against the petitioner's father, who was the Kartha of HUF. The petitioner's father started a Proprietorship Firm in the year 1975. After his demise on 09.09.2020, the petitioner filed an application for cancellation of GST registration and the GST registration was cancelled on 22.05.2021. However, first respondent out of non-application of mind, issued show cause notices and all other allied communications to the deceased Kartha, vide Portal, which was not noticed by the petitioner/son, and citing no response, the first respondent also proceeded to pass the impugned orders dated 27.08.2024.

6.1 Thus, it is crystal clear that the first respondent without realising the fact that the GST registration obtained by the petitioner's father was cancelled owing to his (father's death) w.e.f. 22.05.2021, kept on uploading the show cause notice and other notices through the Portal and one fine passed the impugned order, which in fact, was not noticed by the petitioner and only when the respondent-Department informed the petitioner about the impugned orders, the petitioner immediately contacted the Consultant and retrieved the order from the Portal. Therefore, the petitioner was not in a position to file Appeal within the prescribed period of limitation. Hence, this Court is of the view that the reasons assigned by the petitioner for non-filing of reply and non-responding to the notices issued by the first respondent is acceptable.

6.2 Thus, in the light of the aforesaid facts and circumstances of the case, and taking into consideration of the submissions made by the learned counsel for the petitioner that in a Hindu Undivided Family, if the Kartha had passed away, the person, who is senior next to such person, will become the Kartha in the place of erstwhile Kartha (since deceased) and in the event any demand has to be settled by the erstwhile Kartha (since deceaesed), then, the present Kartha has to settle such claim/demand and that, the petitioner, being the next Kartha of the HUF, is ready and willing to deposit 10% of the disputed tax, in the event, the impugned orders are set aside and the matters are remitted back to the respondent-Authority for fresh consideration, the learned Special Government Pleader for the respondents is also agreable for such course being adopted, this Court is inclined to set aside the impugned orders

6.3 Accordingly, this Court pass/issue the following orders/directions:-

i) The impugned orders dated 27.08.2024, 29.11.2024 and 28.06.2024 passed by the first respondent are set aside.

ii) Consequently, the matters are remitted back to the first respondent for fresh consideration.

iii) The petitioner, being the next kartha of the HUF is directed to deposit 10% of the disputed tax for each of the assessment years within a period of two weeks from the date of receipt of a copy of this order and is directed to file reply within a period of four weeks therefrom.

and

iv) Thereafter, the first respondent shall afford an opportunity of personal hearing to the petitioner and shall pass appropriate orders in accordance with law.

7. In the result, the Writ Petitions are disposed of on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

26.08.2025

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Index : yes/no
Neutral Citation : yes/no

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Krishnan Ramasamy,J.

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W.P.No.32310 of 2025

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