BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.1487 of 2025
and
W.M.P.(MD) Nos.1063 and 1068 of 2025

P.Maheshwari .. Petitioner

Vs.

1.The Union of India,
Rep., by the Secretary,
Department of Revenue,
Ministry of Finance,
No.137, North Block,
New Delhi-110 001.

2.The Goods and Services Tax Council,
Rep., by its Secretary,
GST Council Secretariat,
5th Floor Tower II Jeevan Bharti Building,
Janpath Road, Connaught Palace,
New Delhi-110 001.

3.The Central Board of Indirect Taxes and Customs,
Rep., by its Director, Department of Revenue,
North Block, New Delhi-110 001.

4.The State of Tamil Nadu,
Rep., by its Secretary to Government,

Commercial Taxes and Registration B1 Department,
Secretariat, Fort St. George, Chennai-600 009.

5.The Assistant Commissioner,
Office of the Assistant Commissioner of
GST & Central Excise,
Thanjavur Division, Ponnagar,
Medical College Road, Thanjavur-613 007. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records of the impugned order in order in original No. 35/2024-GST dated 28.08.2024 in F.No.GEXCOM/ADJN/GST/3419/2024-CGST, passed by the 5th respondent and quash the same as manifestly arbitrary, void, contrary to the provision of Section 168A of the Central Goods and Services Tax Act 2017 and violative of Articles 14, 19(1)(g) and 21 of the Constitution of India.

For Petitioner	:	Mr.S.Muthuvenkatraman
For RR1 to 3	:	Mr.P.Paulpandi Standing Counsel
For R4	:	Mr.J.K.Jayaselan Government Advocate
For R5	:	Mr.R.Gowrishankar Senior Standing Counsel

ORDER

The impugned Order-in-Original had been made against a dead person as evidenced from the death certificate that had been produced along with the typed set of papers. In such event, the impugned Order-in-Original would have to be only held as a *non est* order, which is liable to be set aside.

2. In fine, this writ petition is allowed, the impugned Order-in-Original dated 28.08.2024 is set aside. However, the respondents are at liberty to issue notice to the legal heirs of the deceased assessee. The learned counsel for the petitioner is directed to produce legal heirship certificate of the deceased assessee within a period of two weeks from today for the respondents to proceed further. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

21.01.2025

NCC : Yes/No
Index : Yes/No
Internet : Yes
abr

To

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Ministry of Finance,
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2.The Secretary,
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3.The Director,
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Central Board of Indirect Taxes and Customs,
North Block, New Delhi-110 001.

4.The Secretary to Government,
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Commercial Taxes and Registration B1 Department,
Secretariat, Fort St. George, Chennai-600 009.

5.The Assistant Commissioner,
Office of the Assistant Commissioner of
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Thanjavur Division, Ponnagar,
Medical College Road, Thanjavur-613 007.

K.KUMARESH BABU, J.

abr

W.P.(MD) No.1487 of 2025

Dated: 21.01.2025
(½)