BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.07.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.A(MD)No.2012 of 2025
and
C.M.P(MD)No.11619 of 2025

V.Sankar ... Appellant / Petitioner

Vs.

The Assistant Commissioner of
CGST & Central Excise,
Tirunelveli Division,
No.7, Tractor Road,
N.G.O. "A" Colony,
Tirunelveli – 627 007. ... Respondent / Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to allow this Writ Appeal by setting aside the order made in W.P(MD)No.7330 of 2025 dated 18.03.2025 on the file of this Court and allow the writ petition.

For Appellant : Mr.Raja.Karthikeyan

For Respondent : Mr.N.Dilip Kumar
Standing Counsel

JUDGMENT

(By G.R.SWAMINATHAN, J.)

Heard both sides.

2.This appeal is directed against the order dated 18.03.2025 made in W.P(MD)No.7330 of 2025 filed by the appellant. The appellant had challenged the assessment order dated 29.11.2024 on the sole ground that both the show cause notice and the assessment order stand in the name of the deceased person. The learned single Judge vide order dated 18.03.2025 disposed of the writ petition in the following terms:

> *"4. Recording the submission made by the learned Senior Standing Counsel that the petitioner is having an appeal remedy before the Joint Commissioner of CGST (Appeals), Madurai, under Section 107 of the CGST Act, 2017, this writ petition is disposed of, with liberty to the petitioner to approach the appellate authority and raise all the grounds raised in this writ petition in the appeal. In the event, if any appeal is filed within a period of two weeks from the date of receipt of a copy of this order, the appellate*

authority shall entertain the appeal without reference to the period of limitation and dispose of the same in accordance with law, within a period of four months thereafter. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed."

3.The learned counsel appearing for the appellant relying the decision reported in ***CDJ 2022 BHC 267 (Raniben Khimji Patel Legal Heir Khimji Karamshi Patel Versus The Assistant Commissioner of Income Tax & Others)*** contended that the learned single Judge failed to take note of the fact that the entire proceedings are a nullity. He drew our attention to the paragraphs 6 and 7 of the said order.

4.Per contra, the learned Standing Counsel for the department submitted that interference with the order passed by the learned single Judge is not called for.

5.We carefully considered the rival contentions and went through the materials on record.

6.There can be no quarrel with regard to the proposition that issuance of notice or passing of an order in the name of a dead person is a nullity. We would even go to the extent of remarking that no precedent is required for canvassing the said proposition. But in the case on hand, the department was fully aware of the fact that the original assessee Thiru.V.Shankar was no more. We had a look at the show cause notice dated 29.03.2023 as well as the one dated 21.06.2024. A reading of these notices clearly indicates that the department was cognizant of the demise of Thiru.Shankar who was the original registrant. Notices have been issued to S.Vijayan, S/o.Thiru.Shankar. Therefore, it cannot be concluded that the notices as well as the assessment orders stand in the name of the deceased person. Of course, the legal heirs of the deceased assessee will be liable only to the extent of the inheritance received from the deceased assessee even if they have not continued the business.

7.With the aforesaid observation, we confirm the order of the learned single Judge. Time for filing the appeal is extended by three more weeks from the date of receipt of a copy of this order. If the appeal is filed within the time mentioned above, it shall be entertained without reference to limitation. We make it clear that we have not gone into the merits of the matter.

8.This Writ Appeal stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] **[K.R.S., J.]**
25.07.2025

NCC : Yes / No
Internet : Yes / No
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MGA

To

The Assistant Commissioner of
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Tirunelveli Division,
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Tirunelveli – 627 007.

G.R.SWAMINATHAN, J

and

K.RAJASEKAR, J.

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