APHC010484562026

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI (Special Original Jurisdiction) **[3543]**

WEDNESDAY, THE 4th DAY OF NOVEMBER 2026

PRESENT

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

THE HON'BLE SRI JUSTICE T.C.D.SEKHAR

W.P.No.26885 of 2026

Between:

1. DIVIKOLU SUBBA RAO, DIVIKOLU VEERANJANEYULU, S/o.LATE RAMAIAH, AGED ABOUT 47 YEARS, OCCUPATION: BUSINESS.
2. DIVIKOLU VEERANJANEYULU, SON OF LATE RAMAIAH, AGED ABOUT 45 YEARS, OCCUPATION: AGRICULTURE, BOTH ARE RESIDENTS OF MAMILLAPALLI VILLAGE, KUNDURRU POST, SANTHAMAGULRU MANDAL, PRAKASAM DISTRICT.

...PETITIONER(S)

AND

1. THE STATE OF ANDHRA PRADESH, REPRESENTED BY ITS PRINCIPAL SECRETARY, COMMERCIAL TAXES DEPARTMENT SECRETARIAT BUILDINGS, VELAGAPUDI, AMARAVATI, GUNTUR DISTRICT 522237.
2. THE CHIEF COMMISSIONER OF STATE TAXES, GOVERNMENT OF ANDHRA PRADESH, TADEPALLI, GUNTUR DISTRICT 522501.
3. THE ASSISTANT COMMISSIONER GST, BAPATLA CIRCLE, UPSTAIRS OF CANARA BANK, OPPOSITE TO BAPATLA RAILWAY STATION, BAPATLA, BAPATLA DISTRICT 522101.
4. THE DEPUTY ASSISTANT COMMISSIONER ST II, OFFICE OF ASSISTANT COMMISSIONER GST, BAPATLA CIRCLE, UPSTAIRS OF CANARA BANK, OPPOSITE TO BAPATLA RAILWAY STATION, BAPATLA, BAPATLA DISTRICT 522101.
5. THE JOINT SUB REGISTRAR, REGISTRATION AND STAMPS DEPARTMENT, NARASARAOPET, PALNADU DISTRICT 522601

...RESPONDENT(S):

Counsel for the Petitioner(S):

1. Mr.KOCHIRI RAJA SHEKAR

Counsel for the Respondent(S):

1. GP FOR COMMERCIAL TAX

The Court made the following order: (Per NJS, J)

Petitioners' father one Mr.Divikolu Ramaiah started a granite business in the name of 'M/s.Parameswara Granites', after getting the same registered with Commercial Tax Department on 19.01.2016. Unfortunately, he died on 23.04.2018. When petitioners in connection with disposal of their property approached the 5th respondent, they were informed that in view of Letter dated 19.01.2026 addressed by the 4th respondent, a charge is created in favour of the Commercial Tax Department. In the said letter, it was alleged that the petitioners' father fell in arrears of taxes of Rs.5,62,497/- for the period 2017-18, that inspite of several requests, the Tax Payer failed to pay the arrears. In the said Letter, a request was also made to the 5th respondent- Joint Sub-Registrar not to alienate the properties referred to therein and to keep the same in 22-A List (Prohibited properties category).

2. Learned counsel for the petitioners *inter alia* submits that the Death intimation of the petitioners' father was made to the concerned respondent-authorities and the same was recorded while cancelling registration of the above Proprietary concern w.e.f., 23.04.2018. Referring to the details of the properties in Ex.P1 dated 19.01.2026, he submits that petitioners submitted a detailed clarification letter dated 25.08.2026 to the respondent authorities *inter alia* stating that the properties were already registered in the names of the petitioners and other family members, much prior to registration M/s.Parameswara Granites. Referring to the documents / Exs.P7 to P11 etc.,

dated 07.11.2017, 16.08.2008, 01.11.2017, 29.04.2023 and 29.06.2017 respectively, he submits that initiation of proceedings for recovery of alleged dues against a dead person by attaching the immovable properties of the petitioners / family members of the deceased tax payer is unjust, arbitrary and contrary to law. He submits that recovery of tax dues, eight years after the death of the tax payer is barred by limitation and further that as the properties referred to in the impugned Letter dated 19.01.2026 are registered in the names of petitioners, the respondent-authorities should have issued prior notice, more particularly as attachment / prohibition on alienation, effects the rights of the petitioners. He submits that the impugned letter dated 19.01.2026 is violative of principles of natural justice and rights of the petitioners guaranteed under the Constitution of India, as such liable to be set aside. Accordingly, learned counsel seeks to allow the writ petition.

3. On the other hand, learned Assistant Government Pleader made submissions with reference to the counter-affidavit filed by respondent No.4. He *inter alia* submits that an Order of Assessment dated 29.10.2019 was passed against the tax payer 'M/s.Parameswara Granites' and the same is not challenged in the present writ petition. Further, in the light of decision of a learned Division Bench of this Court in W.P.Nos.3177 and 3145 of 2022 dated 08.10.2025, the respondent-Department can continue the proceedings for recovery of tax liability of deceased tax payers against the legal heirs. He fairly submits that appropriate orders in view of the legal position may be passed.

4. This Court has considered the submissions made and perused the material on record.

5. At the outset, it may be noted that there is no dispute with regard to registration of proprietary concern M/s.Parameswara Granites by the petitioners' father. As per Ex.P4 Death Certificate, petitioners' father died on 24.03.2018. Admittedly, an Order of Assessment was passed on 29.10.2019 i.e., after the death of the petitioner's father. In such circumstances, any proceedings for recovery of tax dues pursuant to an order of assessment passed against the dead person are unsustainable, in as much as the assessment order itself is not a valid order in the eye of law.

6. In W.P.No.6029 of 2025 dated 24.12.2025, a Co-ordinate Bench of this Court held as follows:

> "5……Section 93 (1) (A) of the GST Act provides for recovery of the taxes from the business of the death person if the same is being carried on by his legal representative of any other person. Section 93 (1) (b) of the GST Act states that the dues of the death person can be recovered from the estate of the deceased if the business is discontinued. This provision essentially relates to recovery of tax and other amounts due against a death person. This provision does not deal with however assessment is to be carried out against a death person after he has passed away.
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> 6. It is settled law that the assessments and other proceedings can only be initiated against the persons who are living and such proceedings against death person would not be valid. However, the fact remains that, under Section 93 of the GST Act, the dues of the

death person can be recovered either from the business he had set up or from his estate. In such circumstances, in the absence of any provision, this Court would have to be hold that the only practicable way of settling the affairs of the death person would be to direct the assessment being carried out by involving either the representative or person carrying on the business of a death person or which such business is not being carried on, by involving the legal representative who be holding the estate of the deceased person.

7. In the said circumstances, since the petitioner is the legal representative of the deceased person, being his son, it would be appropriate to set aside the impugned Order, dated 25.01.2024, with a direction to carry out a fresh assessment after involving the petitioner herein, by issuing a notice to the petitioner. Needless to say, any recovery that may be initiated, after an Order of assessment, shall be only against the estate of a deceased person and against the petitioner to the extent of the estate of his deceased father, which is available to the petitioner."

7. At this stage, it may also be relevant to refer to the decision cited by the learned Assistant Government Pleader. A learned Division Bench while referring to the provisions of the A.P.V.A.T., Act, dealt with a matter wherein assessment and penalty orders were passed against a dead person. It is profitable to extract the relevant portion of the order which reads as follows:

"13. The learned counsel for the petitioner had also raised the contention that the late husband of the petitioner had passed away in the year 2017 before initiation of the assessment and penalty orders and even before the issuance of the show cause notice. It is a settled principle of common law that proceedings cannot be initiated against a dead person. The same principle can safely be extended to the proceedings under tax laws also. However, Section 23 of the A.P.VAT Act provides for continuation of assessments, appeals and revisions in relation to tax liability of a dead person in the following manner.

Section 23. Liability of executor, administrator, legal representative:

(1) Where any dealer doing business in respect of which tax is payable under the Act is dead, the Executor, Administrator, Successor in title or other legal representative of the deceased dealer shall, in respect of such business, be liable to submit the returns due under the Act and to assessment under section 21 and to pay out of the estate of the deceased dealer, the tax, interest and any penalty assessed or levied as payable by the deceased dealer.
(2) The provision relating to appeals and revisions shall be applicable to assessment made under sub-section (1) as if the Executor, Administrator, Successor in title or other legal representative were himself the dealer.
(3) The provisions of sub-sections (1) and (2) shall apply mutatis mutandis to a partnership firm of which the managing partners have died.

14. The aforesaid provision clearly provides for the legal representatives or administrators etc., of the estate of a dead person to take up the responsibility of filing necessary returns, participating in the assessment proceedings as well as the in the subsequent appellate or revisional proceedings. In the present case, the petitioner who is the wife of the deceased dealer, would fall squarely within the category of legal representatives of the deceased dealer.

15. In view of the fact that the proceedings could not have been initiated or continued against a dead person, both the order of assessment as well as the order of penalty would have to be set aside. However, by virtue of Section 23 of the A.P.VAT Act, the said proceedings can be continued against the petitioner herein and such other legal representatives who would be class-I heirs of the deceased husband of the petitioner, under the provisions of the Hindu Succession Act, 1956."

8. Admittedly, in the present case, before addressing the impugned letter / communication dated 19.01.2026 to the 5th respondent, no notices were issued to the petitioners. Therefore, the said communication in relation to alleged tax arrears of a dead person is not only contrary to the above stated legal position, but also violative of principles of natural justice. As such the impugned letter dated 19.01.2026 is not sustainable. Though learned Assistant Government Pleader raised a contention that the Assessment Order

dated 29.10.2019 is not challenged, undisputed fact is that the same is passed against a dead person and has no legal efficacy.

9. In such view of the matter, while reiterating that the Assessment Order dated 29.10.2019 is of no legal consequence, in view of the conclusion arrived at supra, the letter dated 19.01.2026 is set aside.

10. Writ Petition is accordingly disposed of, with a liberty to assessing authority to take up the assessment proceedings in respect of the above referred proprietary concern afresh, in accordance with the law, after giving due notice and opportunity of hearing to the petitioners and other Class-I heirs of the deceased Mr.Divikolu Ramaiah / proprietor of M/s.Parameswara Granites. No costs.

As a sequel, all the pending miscellaneous applications, if any, shall stand closed.

JUSTICE NINALA JAYASURYA

JUSTICE T.C.D.SEKHAR

Date: 04.11.2026
BLV

THE HON'BLE SRI JUSTICE NINALA JAYASURYA

THE HON'BLE SRI JUSTICE T.C.D.SEKHAR

W.P.No. 26885 of 2026

Dt: 04.11.2026

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