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W.P.Nos.28496 & 28499 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2024

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The Honourable **Mr. Justice Krishnan Ramasamy**

W.P.Nos.28496 & 28499 of 2024

and

W.M.P.Nos.31070, 31071, 31072 & 31073 of 2024

Ramasamy Singaravelan (deceased)
Proprietor of Sri Bhagavathi Amman Electricals,
Rep. By Legal Heir- S.Sumathi.

...Petitioner in both W.Ps.

Vs.

The Deputy State Tax Officer,
Office of the Deputy commercial Tax officer,
Sathyamangalam, Erode.

...Respondent in both W.Ps.

Prayer in W.P.No.28496 of 2024 :-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records of the respondent in the Impugned proceedings vide Order in GSTIN 33EDAPS6467J2Z3/2017-18 dated 26.12.2023 along with consequential order in Form GST DRC-07 bearing a Ref No. ZD331223203761Y dated 26.12.2023 for the tax period 2017-18 and quash the same.



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Prayer in W.P.No.28499 of 2024 :-

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Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records of the respondent herein in the Impugned proceedings vide Order in GSTIN 33EDAPS6467J2Z3/2022-23 dated 28.03.2024 along with consequential order in Form GST DRC-07 bearing a Ref No. ZD3303242072520 dated 30.03.2024 for the tax period 2022-23 and quash the same.

For Petitioner in both W.Ps. : Mrs.R.Hemalatha

For Respondent in both W.Ps. : Mr.V.Prashanth Kiran
Government Advocate (T)

Order

As the issued involved in both the Writ Petitions is identical in nature, with consent of parties, both the Writ Petitions are taken up together and disposed of at the stage of admission itself.

2. The challenge in Writ Petition No.28496 of 2024 is to the order dated 26.12.2023 along with consequential order dated 26.12.2023 for the tax period 2017-18 and to quash the same.



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2.1 The challenge in Writ Petition No.28499 of 2024 is to the order

dated 28.03.2024 and consequential order dated 30.03.2024 for the tax period 2022-23 and quash the same.

3. Mrs.R.Hemalatha, learned counsel for the petitioner would submit that the Proprietor of the Firm, viz., Ramasamy Singaravelan had passed away as early as on 07.05.2022, however, all the notices, which culminated in the impugned orders were issued in the name of the said deceased person, hence, the petitioner, viz., S.Sumathi, the wife of the said deceased, is not aware of the same and the petitioner came to know about the impugned orders, only when the respondent intimated through phone call about the initiation of recovery proceedings, therefore, the petitioner is before this Court by way for present Writ Petitions.

3.1 The learned counsel assailed the impugned orders by contending that the notices issued to a dead person and assessment orders passed based on such notices are void ab initio and liable to be set aside, accordingly, prayed for setting aside the impugned orders. The learned counsel also



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submitted that the petitioner, being the legal heir of the deceased,

Ramasamy Singaravelan, viz. wife, would file reply and contest the matter, and hence, sought for appropriate orders.

4. Mr.V.Prashanth Kiran, learned Government Advocate (T) for the respondent since the petitioner undertook to file reply and contest the issue, the prayer may be considered.

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

6. On perusal of records, it is seen that the deceased, viz., Mr.Ramasamy Singaravelan was an assessee on the files of the respondent under the provisions of Tamil Nadu Goods and Service Tax Act, 2017 and the said person died as early as on 07.05.2022, however, the respondent, who is ignorant of the said fact has been continuously issuing notices in the name of the said deceased person and also passed assessment orders and not stopping with that also proceeded to initiate recovery proceedings. The



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petitioner came to know about the impugned proceedings only when the same was intimated by the respondent through phone call and on receipt of the recovery notice.

7. Thus, it is crystal clear the impugned orders are ex parte orders, and suffers from violation of principles of natural justice and de hors the same, the notices issued to an assessee, who is no more and assessment orders passed based on such notices are void ab initio and liable to be set aside. Hence, this Court is inclined to set aside the impugned orders.

8. Accordingly, this Court passes the following orders:-

i) The orders impugned in both Writ Petition dated 26.12.2023 and 28.03.2024 respectively as well as the consequential orders towards initiation of recovery proceedings dated 26.12.2023 and 30.03.2024 are set aside.

ii) The matters are remitted back to the respondent for fresh consideration.



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iii) The petitioner, viz. S.Sumathi, who is the legally wedded wife

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of the deceased Ramasamy Singaravelan shall file replies to the DRC-01 Notices dated 27.09.2023 and 07.02.2024, respectively (which were issued in the name of the Proprietary concern) within a period of four weeks from the date of receipt of a certified copy of this order.

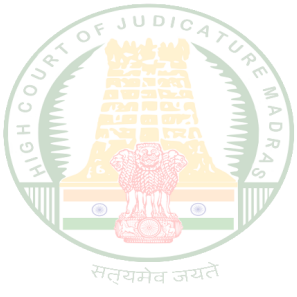
iv) On receipt of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice by fixing the date of personal hearing to the petitioner and thereafter, pass appropriate orders in accordance with law, after hearing the petitioner in full, as expeditiously as possible.

9. In the result, both the Writ Petitions are allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : yes/no

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To

The Deputy State Tax Officer,
Office of the Deputy commercial Tax officer,
Sathyamangalam, Erode.

Krishnan Ramasamy,J.,

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