IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.07.2025

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.23522 of 2022
& W.M.P.No.22490 of 2022

Nisha Nandakumar

... Petitioner

Vs.

1. The Assistant Commissioner of CGST & Central Excise
Thyagaraya Nagar Divsiion,
O/o.of Commissioner of GST and Central Excise,
Chennai,Chennai South Commissionerate,
692, MHU Complex, Anna Salai,
Nandanam, Chennai- 600 035

2. The Deputy Commissioner of the CGST and Central Excise
Thyagaraya Nagar Division,
O/o.of Commissioner of GST and Central Excise,
Chennai Chennai South Commissionerate,
692, MHU Complex Anna Salai,
Nandanam, Chennai- 600 035.

3. The Assistant Commissioner (st),
T.Nagar Assessment Circle,
No.46, Greenways Road, Chennai - 600028.

(R3 SUO MOTU IMPLEADED VIDE
ORDER DT 18.11.2022 MADE IN
WP.23522/2022 BY ASMJ)

...Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, Call for the records on the file of the 2nd respondent in Order in original No.4 / 2022 - GST in C.No.V /GST/15/14/2021-Adj., dated 28.06.2022 DIN- 20220659TL000033 3D4F and quash the same as illegal, nullity, non-est in law and principles of law laid down by this Honble court and direct the Respondents to permit the petitioner as legal heir of the deceased assessee Sri krishnan Nandakumar carrying on proprietorship business in the trade name of M/s. Elektronik Lab (M/s. Krishnan Nandakumar) to file Form GST TRAN- 2

For Petitioner : Ms.C.Rekha Kumari

For Respondent : Mr.G.Meganathan, Jr.St Counsel
For Mr.S.Gurumoorthy, Sr St Counsel
For Rr1 And 2
Mr.C.Harsha Raj, SGP For R3

ORDER

This writ petition has been filed challenging the impugned order dated 28.06.2022 passed by the respondent.

2. The learned counsel for the petitioner would submit that in this

case, the petitioner's husband was passed away on 09.05.2021 and the demise of her husband was intimated to the Department. However, without considering the same, the show cause notice dated 16.07.2021 was issued and subsequently, the impugned order dated 28.06.2022 has also been passed against the petitioner's husband, who is a dead person. Hence, he would contend that the said impugned order, which was passed against a dead person, is non-est in law and the same is liable to be set aside.

3. Further, he would submit that now, the petitioner, who is one of the legal heirs of the deceased, is willing to file reply to the show cause notice dated 16.07.2021 issued by the respondent. Hence, he requests this Court to pass appropriate orders

4. In reply, the learned Junior Standing counsel and the learned Special Government Pleader appearing for the respondents have confirmed the submissions made by the petitioner and they had fairly admitted that the impugned order was passed against the petitioner's husband, who is a dead person. Hence, he requests this Court to pass

appropriate orders.

5. Heard the learned counsel for the petitioner and the learned Junior Standing counsel and the learned Special Government Pleader for the respondents and also perused the materials available on record.

6. In the case on hand, the petitioner's husband was died as early as on 09.05.2021 and the same was intimated to the Department. In spite of the same, a show cause notice dated 16.07.2021 was issued and the impugned order dated 28.06.2022 was passed by the respondent against the petitioner's husband, who is a dead person.

7. As rightly contended by the petitioner, an order, which was passed against a dead person, is non-est in law. In this case, the demise of the petitioner's husband was duly intimated to the respondent. When such being the case, the respondent was supposed to have issued show cause notice to the legal heirs of the deceased. However, without doing so, they had passed the impugned order, against a dead person and hence, the same cannot be enforced.

8. Further, the petitioner, who is wife of the deceased, undertakes to file a reply to the show cause notice on behalf of all the legal heirs. Therefore, this Court is inclined to set aside the impugned order and remand the matter back to the respondent. Accordingly, this Court passes the following order:

> (i) The impugned order dated 28.06.2022 is set aside and the matter is remanded to the respondent for fresh consideration.
>
> (ii) The petitioner, in her capacity as a legal heir of the deceased, shall file their reply/objection along with the required documents, if any, for the show cause notice dated 16.07.2021, within a period of four weeks from the date of receipt of copy of this order.
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> (iii) On filing 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 on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is also closed.

22.07.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa

To

1. The Assistant Commissioner of CGST & Central Excise
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KRISHNAN RAMASAMY.J.,

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(2/2)