



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

WEDNESDAY, THE 28<sup>TH</sup> DAY OF FEBRUARY 2024 / 9TH PHALGUNA, 1945

WA NO. 212 OF 2024

AGAINST THE JUDGMENT WP(C) 3127/2024 OF HIGH COURT OF KERALA

APPELLANT/PETITIONER:

VIKAS A SHAH, AGED 50 YEARS  
S/O. LATE: VASANTI A SHAH (PROPRIETOR OF  
INTERNATIONAL AGENCIES) RESIDING AT 9/6, BEACH  
ROAD, KOZHIKODE, KERALA - 673001, PIN - 673001

BY ADVS. SRIKANTH THAMBAN  
ABHILASH.B  
FIRDOUSE.K.K  
SRAVAN M.S.

RESPONDENTS/RESPONDENTS:

- 1 THE STATE TAX OFFICER  
OFFICE OF THE STATE TAX OFFICER, TAXPAYER SERVICES  
CIRCLE, KOZHIKODE CITY, STATE GST DEPARTMENT, 1ST  
FLOOR, JAWAHAR NAGAR COLONY, ERANJIPALAM P.O,  
KOZHIKODE, KERALA, PIN - 673006
- 2 STATE OF KERALA  
REPRESENTED BY GOVERNMENT PLEADER,  
HIGH COURT OF KERALA, PIN - 682031

SR GP VK SHAMSUDHEEN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON  
28.02.2024, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:



## J U D G M E N T

### **Dr. Kauser Edappagath, J.**

The appellant preferred the writ petition challenging the assessment orders passed by the 1<sup>st</sup> respondent against his deceased mother for the financial years 2017-2018 and 2018-2019.

2. The appellant's mother, the late Vasanti Anil Kumar Shah, was running a proprietorship concern under the name and style "International Agencies", which was engaged in the business of copra and other allied oil products. It was registered under the provisions of the CGST/SGST Act, 2017. The appellant's mother passed away on 2/12/2018. On her death, the father of the appellant, Sri. Anil Kumar Shah was designated as the authorised signatory for the closure activities of the business held by the appellant's mother. He also passed away on 21/2/2021.



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According to the appellant, the 1<sup>st</sup> respondent initiated assessment proceedings under the GST Act against the mother of the appellant for the period July 2017 to March 2018, and to that end, Ext.P4 show cause notice was issued in the name of the deceased mother of the appellant. It is alleged that in spite of the objection raised by the appellant that the assessment proceedings cannot be continued in the name of his deceased mother, the 1<sup>st</sup> respondent concluded the assessment proceedings and passed the impugned orders. The learned Single Judge found that the appellant had succeeded the business of his mother. However, considering the fact that the appellant could not participate in the assessment proceedings and the impugned assessment orders were passed *ex parte*, they were set aside, and the assessing officer was directed to pass a fresh assessment order in accordance with the law after hearing the appellant with a rider that the appellant shall not raise the question of limitation. It is challenging the said judgment; the appellant is before us.

3. We have heard Sri.Srikanth Thamban, the learned



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counsel for the appellant and Sri.V.K.Shamsudheen, the learned Senior Government Pleader.

4. The learned counsel for the appellant submitted that the learned Single Judge proceeded to dispose of the writ petition on the assumption that the appellant had admitted that he had inherited his mother's business. According to the learned counsel, the appellant had never admitted that he succeeded the business of his mother. It is his case that after the death of his mother, he started his own business in the name of International Agencies with a different registered address. In short, the case set up by the appellant is that his business and his mother's business are two different businesses, though their names are similar. The appellant can very well take up his said plea regarding the non-inheritance of his mother's business as well as the plea of limitation before the assessing officer. The assessing officer shall consider those pleas untrammelled by any observations in the impugned judgment and pass fresh orders in accordance with the law after hearing the appellant.



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Writ appeal is disposed of as above.

Sd/-  
**DR. A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

Sd/-  
**DR. KAUSER EDAPPAGATH**  
**JUDGE**

Rp