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Assessment Order Passed Against a Deceased Assessee is Unsustainable in Law

The Hon'ble Madras High Court in the case of ***Gayathri Devi, Legal Heir and Wife of Late Ram Chandra Gupta v. The Assistant Commissioner (ST) [W.P. No. 18808 of 2026 dated June 05, 2026]*** quashed the ex-parte assessment order passed against the deceased assessee and held that the said order is unsustainable in law, since the assessee had passed away almost four years prior to the issuance of the order. However, the Court clarified that the Revenue is at liberty to initiate fresh proceedings against the legal representatives, after issuing notice to all the legal heirs in accordance with the legal heir certificate.

Facts:

Late Shri Ram Chandra Gupta ("**the Deceased Assessee**"), Proprietor of M/s. School Needs, situated at No. 251/222, Walltax Road, Chennai – 600 003, was a registered person under the applicable GST enactments. The Deceased Assessee passed away on August 13, 2020, as evidenced by the death certificate dated October 05, 2020, and the legal heir certificate dated July 16, 2021.

Despite the demise of the Assessee, the Assistant Commissioner (ST), Moore Market Assessment Circle, Chennai ("**the Respondent**"), proceeded to issue an ex-parte assessment order bearing No. ZD330724338241N dated July 29, 2024 ("**the Impugned Order**") in the name of the Deceased Assessee, i.e., almost four years after his death.

Aggrieved by the Impugned Order, Smt. Gayathri Devi, the legal heir and wife of the Deceased Assessee ("**the Petitioner**"), preferred a writ petition under Article 226 of the Constitution of India before the Hon'ble Madras High Court praying for issuance of a writ of certiorari to call for and quash the Impugned Order.

Issue:

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Whether an ex-parte assessment order passed under the GST enactments against a registered person who had already passed away nearly four years prior to the issuance of the said order is sustainable in law?

Held:

The Hon'ble Madras High Court in **W.P. No. 18808 of 2026** held as under:

- **Observed that**, both the death certificate dated October 05, 2020 and the legal heir certificate dated July 16, 2021 recorded the date of death of the Assessee as August 13, 2020, which is much prior to the date of the Impugned Order.
- **Noted that**, the Impugned Order dated July 29, 2024 was issued nearly four years after the death of the Assessee, and consequently, the proceedings culminated in an order passed against a deceased person.
- **Held that**, the Impugned Order is unsustainable in law and is liable to be set aside, as no valid proceedings can be concluded against a person who is no longer alive.
- **Directed that**, the Respondent is, however, at liberty to initiate fresh proceedings against the legal representatives of the Deceased Assessee, after issuing notice to all the legal heirs as per the legal heir certificate dated July 16, 2021.
- **Accordingly**, the writ petition was disposed of by quashing the Impugned Order, and the connected miscellaneous petitions were closed, with no order as to costs.

Our Comments:

The judgment of the Hon'ble Madras High Court reiterates the well-settled principle of law that any assessment, adjudication or recovery proceedings initiated or concluded against a deceased person, without bringing his legal representatives on record, are a nullity in the eye

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of law. A dead person ceases to be a “person” under the General Clauses Act, 1897 and consequently, no notice, order or demand can validly be addressed to or fastened upon him.

Section 93 of the Central Goods and Services Tax Act, 2017 (“the CGST Act”) is the special provision dealing with the liability to pay tax, interest or penalty in the event of death of a registered person. Sub-section (1) of Section 93 provides that where a person liable to pay tax, interest or penalty under the CGST Act dies, then — (a) if a business carried on by such person is continued after his death by his legal representative or any other person, such legal representative or other person shall be liable to pay tax, interest or penalty due from such person; and (b) if the business carried on by such person is discontinued, whether before or after his death, his legal representative shall be liable to pay (out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge) the tax, interest or penalty due from such person under the Act, whether such tax, interest or penalty has been determined before his death but has remained unpaid or is determined after his death.

A combined reading of Section 93 with the principles of natural justice makes it abundantly clear that the proper recourse available to the Revenue, upon receipt of information of the death of a registered person, is to (i) update the GSTN records, (ii) cancel the registration of the deceased proprietor, and (iii) issue fresh show cause notices to the legal representatives in their representative capacity before passing any adjudication order. A failure to follow this procedure renders the consequent order void ab initio, and not merely irregular.

Pari materia judgments – Similar view:

- The Hon’ble Madras High Court in ***Rekha S. v. Assistant Commissioner (ST)(FAC) [W.P. No. 25223 of 2023]***, set aside the assessment order issued in the name of the deceased proprietor and remanded the matter for fresh consideration with a direction to issue notice to the legal heirs.

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- The Hon'ble Kerala High Court in *Unnikrishnan R. v. Union of India [W.P.(C) No. 8979 of 2024]*, quashed the show cause notice and the consequent order passed against a deceased registered person, observing that issuance of such notice in the name of a dead person is a substantive defect which is not curable under Section 160 of the CGST Act.
- The Hon'ble Allahabad High Court in *Amit Kumar Sethia (Deceased) v. State of U.P. [Writ Tax No. 977 of 2023]* held that the entire proceedings initiated against a dead person and the consequential demand notice are non est in law and cannot be sustained.
- The Hon'ble Supreme Court in the income-tax context, in *Savita Kapila v. Assistant Commissioner of Income Tax [(2020) 426 ITR 502 (Del.) – SLP dismissed]*, held that issuance of notice to a deceased assessee is a fundamental jurisdictional defect which cannot be cured by recourse to Section 292BB – a principle which applies with equal force under the GST regime as well.

Contrary view / Caveat:

It is, however, worth noting that in cases where the legal heirs have consciously and voluntarily participated in the assessment proceedings, responded to notices, and effectively stepped into the shoes of the deceased without raising any objection, certain Courts have taken the view that the proceedings cannot be invalidated merely on the technical ground of issuance in the name of the deceased — see *Sumit Balkrishna Gupta v. Assistant Commissioner of Income Tax [(2019) 414 ITR 292 (Bom.)]*. This view is, however, distinguishable on facts and tax authorities should not lightly assume waiver of such a fundamental defect, particularly where the legal heirs were never put on notice in the first place — as was the position in the present case.

Key Takeaway:

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The judgment reinforces the importance of due diligence by the GST Department in updating taxpayer master data and verifying the status of the registered person before issuing show cause notices or finalising adjudication orders. The Department ought to put in place an institutional mechanism, possibly through the GSTN, to flag deceased registrants and route any further proceedings only against the duly identified legal representatives. Mechanical issuance of notices and ex-parte orders against deceased persons not only causes avoidable hardship and distress to the bereaved legal heirs but also results in unnecessary litigation, judicial time and wastage of administrative resources. Legal heirs aggrieved by such orders may approach the jurisdictional High Court under Article 226 of the Constitution of India for appropriate relief, including quashing of such orders.

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