Case Citation: (2026) taxcode.in 1440 HC

WEB COPYBEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.08.2026**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No. 2128 of 2024
and
W.M.P.(MD) Nos.2122, 2127, 2129 of 2024 & 11246 of 2025

1. Unnikrishnan

2. Sujatha

3. Nalinakshi Amma. ... Petitioners

Vs

1. The Union of India,
Rep. by its Secretary to Government,
Finance Department,
Rajpath Marg,
Central Secretariat,
New Delhi - 110 001.

2. The Commissioner of Commerciel Taxes,
O/o. the Principal and Special Commissioner of
Commercial Taxes,
Ezhilagam,
Chepauk,
Chennai - 600 005.

3. The State Tax Officer,

https://www.mhc.tn.gov.in/judis

www.taxcode.in

WEB COPY

Kuzhithurai,
The Commercial Tax Building,
Kuzhithurai @ Kattuthurai,
Kanniyakumari District - 629 163.

4. The Assistant Commissioner (ST),
Kuzhithurai Assessment Circle,
Integrated Commercial Taxes Buildings,
Kalkulam Taluk,
Vilvatsagoshtam,
Kanniyakumari District - 629 802. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to impugned order No. GSTIN - 33ABBPP2462P1ZF/2017-18 Dated 30-06-2023 issued by the 3rd respondent and to quash the same as illegal, and consequently, to direct the 2nd, 3rd and 4th respondents not to proceed further to recover the demand pursuant to the said order and pass such further or other orders including the cost of the proceeding.

For petitioner : Mr. Bobby John Pulickaparambi

For R1 : Mr.M.Karthikeyan Venkitachalapathy
Deputy Solicitor General of India (i/c)

For R2 to R4 : M/s.P.Sudarkodi Natchiyar
Government Advocate (Taxes)

*****

https://www.mhc.tn.gov.in/judis

www.taxcode.in

WEB COPY

ORDER

Mr.M.Karthikeyan Venkitachalapathy, learned Deputy Solicitor General of India (i/c), takes notice for the first respondent. M/s.P.Sudarkodi Natchiyar, learned Government Advocate (Taxes), takes notice for the respondents 2 to 4.

2. This Writ Petition is taken up for final hearing at the time of admission with the consent of the learned counsel for the petitioner, learned Deputy Solicitor General of India (i/c) for the first respondent and M/s.P.Sudarkodi Natchiyar, learned Government Advocate (Taxes) for the respondents 2 to 4.

3. The petitioner is against this Court challenging the Impugned Order dated 30.06.2023 whereby the proposal in Show Cause Notice in DRC 01 dated 01.03.2023 has been confirmed in absence of reply. The impugned order has been passed in the name of the deceased assessee who died on 11.10.2017.

4. The learned counsel for the petitioners submits that under the similar circumstances, this Court has intervened and remitted the case back without any conditions although the liability is on the part of the petitioners as legal heir of

https://www.mhc.tn.gov.in/judis

www.taxcode.in

WEB COPY

the deceased assessee.

5. A reference is made to the order passed by this Court dated 12.06.2024 in W.P.(MD) No.12464 of 2024 filed by the very same petitioners for the tax period 2017-18, wherein this Court has passed the following orders:

> *"8. I have considered the arguments advanced by the learned counsel for the petitioner, the learned Central Government Standing Counsel for the first respondent and the learned Additional Government Pleader for the second to fourth respondents.*
>
> *9. There is no dispute that the dealer Mr.Radhakrishnan Pillai has died on 11.10.2017 and that the petitioner is one of his legal heirs/legal representatives along with his mother R.Sujatha aged about 62 years, his sister Sreelekshmi aged about 33 years and his grand-mother Nalinakshi Amma aged about 84 years.*
>
> *10. The order that has been passed against the dead person is nonest in law. If the petitioner is carrying on the business of the deceased person, then, the remedy is available to the Department to proceed against the petitioner under Section 93 of the TNGST Act, 2017. It appears to be that the petitioner is not carrying on the business of the deceased person.*
>
> *11. Be that as it may, since the impugned order has been passed against the dead person, the impugned order is quashed by directing the respondents to issue a common notice to the petitioner representing the interest of the other legal heirs/legal representatives of the deceased dealer Mr.Radhakrishnan Pillai, within a period of 30 days from the date of receipt of a copy of this order and thereafter proceed in the manner known to law, in case the petitioner is carrying on the business of the deceased dealer Mr.Radhakrishnan Pillai.*
>
> *12. With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed."*

https://www.mhc.tn.gov.in/judis

www.taxcode.in

WEB COPY

6. This dispute in the present case also pertains to the tax period 2017-18. The petitioners have however managed to get interim order from this Court and thus, prolonged the longivity of the litigation till date. In my view, the petitioners are liable to pay the tax in terms of Section 93(1)(b) of the respective GST enactments, which reads as under:

> *"If the business carried on by the 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 this Act, whether such tax, interest or penalty has been determined before his death but has remained unpaid or is determined after his death."*

7. This Court could have remitted the case back. The petitioners however endeavoured to remain silent all those years instead of having the case remitted back as was done at the time of admission in W.P.(MD) No.12464 of 2024. The present impugned order was passed on 30.06.2023, which is prior to the Impugned Order dated 29.12.2023, which was challenged in the said Writ Petition. Hence, there is no justification to pass similar order by remitting the case back without any condition.

8. Considering the same, balancing the interest of the petitioners as also the

https://www.mhc.tn.gov.in/judis

www.taxcode.in

WEB COPY

respondents, the impugned order is quashed and the case is remitted back to the third respondent to pass a fresh order in lieu of the impugned order subject to the petitioners depositing 50% of the disputed tax as a condition for *denovo* adjudication in cash from the petitioners' Electronic Cash Register within a period of thirty (30) days from the date of receipt of a copy of this order.

9. Within such time, the petitioners shall also file a reply to the Show Cause Notice in DRC 01 dated 01.03.2023 together with requisite documents to substantiate the case by treating the Impugned Order dated 30.06.2023 as an addendum to the Show Cause Notice dated 01.03.2023.

10. In case the petitioners comply with the above stipulations, the third respondent shall proceed to pass a final order on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months of such reply / pre-deposit.

11. In case the petitioners fail to comply with any of the stipulations, the respondents are at liberty to proceed against the petitioners to recover the tax in

https://www.mhc.tn.gov.in/judis

www.taxcode.in

WEB COPY

accordance with law as if this Writ Petition was dismissed *in limine* today.

12. Needless to state, before passing any such order, the third respondent shall give due notice to the petitioners.

13. This Writ Petition stands disposed of, with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
apd

24.08.2026

To
1. The Secretary to Government,
Finance Department,
Rajpath Marg,
Central Secretariat,
New Delhi - 110 001.

2. The Commissioner of Commerciel Taxes,
O/o. the Principal and Special Commissioner of
Commercial Taxes,
Ezhilagam,
Chepauk,
Chennai - 600 005.

https://www.mhc.tn.gov.in/judis

www.taxcode.in

WEB COPY

C.SARAVANAN, J.

apd

3. The State Tax Officer,
Kuzhithurai,
The Commercial Tax Building,
Kuzhithurai @ Kattuthurai,
Kanniyakumari District - 629 163.

4. The Assistant Commissioner (ST),
Kuzhithurai Assessment Circle,
Integrated Commercial Taxes Buildings,
Kalkulam Taluk,
Vilvatsagoshtam,
Kanniyakumari District - 629 802.

W.P.(MD) No. 2128 of 2024

24.08.2026

https://www.mhc.tn.gov.in/judis

www.taxcode.in