NC: 2026:KHC-D:2875
WP No. 101265 of 2026

HC-KAR

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 24TH DAY OF FEBRUARY 2026

BEFORE
THE HON'BLE MRS JUSTICE K.S.HEMALEKHA

WRIT PETITION NO.101265 OF 2026 (T-RES)

BETWEEN:

SHRI. RAJU S/O. BASAVARAJ KARIYANNAVAR
SINCE DECEASED, REP. BY
SMT. VIJAYLAXMI W/O. RAJU KARIYANNAVAR,
AGE. 40 YEARS, R/O. 1107, MRUTHYUNJAYA NAGAR,
10TH MAIN, 2ND CROSS, NEAR N.V HOTEL,
RANEBENNUR-581115, DIST. HAVERI,
GSTIN: 29AVVPK1818L1ZU.

...PETITIONER

(BY MISS. UMERA CHURIKHAN, ADVOCATE)

AND:

1. THE COMMERCIAL TAX OFFICES,
LGSTO-440, AFZALPUR TAKKE,
VIJAYPUR-586102.

2. THE JOINT COMMISSIONER OF
COMMERCIAL TAXES [APPEALS],
SUMOULYA-SOUDH,
CLUR ROAD, BELAGAVI-590001.

3. THE STATE OF KARNATAKA
DEPARTMENT OF FINANCE,
REPRESENTED BY ITS SECRETARY,
VIDHANA SOUDHA, BENGALURU-560001.

4. GOVERNMENT OF INDIA
MINISTRY OF FINANCE,
(DEPARTMENT OF REVENUE),
RAJPATH MARG, 'E' BLOCK,
CENTRAL SECRETARIAT,
NEW DELHI, DELHI-110011.

...RESPONDENTS

(BY SRI. PRAVEEN K.UPPAR, AGA FOR R1 TO R3;
SRI. M.B.KANAVI, ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT OF CERTIORARI OR IN THE LIKE NATURE OF CERTIORARI QUASHING THE IMPUGNED ORDER BEARING NO.CTO/LGSTO 440-DRC-07-VJP/2023-24/B-13533 DATED 22/12/2023, 1 FOR THE F.Y 2017-18, PASSED BY THE RESPONDENT NO.1 VIDE ANNEXURE-B TO THE PETITION; ISSUE WRIT OF CERTIORARI OR IN THE LIKE NATURE OF CERTIORARI QUASHING THE IMPUGNED SUMMARY OF THE ORDER BEARING REFERENCE NO. ZD2912231004021 DATED 30/12/2023, 1 FOR THE F.Y 2017-18, PASSED BY THE RESPONDENT NO.1 VIDE ANNEXURE-B1 TO THE PETITION; AND ETC.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: THE HON'BLE MRS JUSTICE K.S.HEMALEKHA

ORAL ORDER

1. The impugned order passed by respondent No.1 - Commercial Tax Officer, is assailed primarily on the ground that it has been passed against a dead person namely Raju S/o Basavaraj Kariyannavar.

2. Learned counsel for the petitioner, by inviting the attention of this Court to the death certificate of Raju S/o Basavaraj Kariyannavar (Annexure-A), who passed away on 27.02.2019, submits that the impugned assessment order dated 22.12.2023 is

been passed against a dead person and is *non est* in law.

3. In support of the her contention, reliance is placed on the decision of the High Court of Judicature at Ahmedabad in the case of ***Amit Kumar Sethia (deceased) Vs. State of U.P. and another***[1] **(*Amit Kumar Sethia)***, wherein it has been categorically held that any order passed against dead person, without bringing legal representatives on record is nullity and unenforceable in law. Reliance is also placed on the decision of the High Court of Judicature at Madras in the case of ***Mrs. Lakshmi Periyaswamy Vs. State Tax Officer***[2] *(Lakshmi Periyaswamy),* which reiterates the same principles and holds that assessment proceedings initiated and continued against deceased assessee are without jurisdiction and liable to be set aside. She further places reliance upon the decision of this

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[1] Income Tax Appeal No.917 of 2025 disposed of on 02.04.2025
[2] Writ Petition No.34252 of 2024 and connected matters disposed of 26.11.2024

Court in the case of ***Shri Rudrappa S/o Madivalappa vs. Commercial Tax Officer and others***[3] *(Rudrappa)*.

4. *Per contra*, learned Additional Government Advocate appearing for the respondents supports the impugned order and submits that, under the provisions of the Goods and Service Tax Act, 2017 ('hereinafter referred to as 'the GST Act', for short), the tax dues of a deceased person can be recovered from the legal representatives, and therefore, the impugned order does not warrant interference.

5. This Court has considered the submissions and perused the material on record.

6. This Court in the case of ***Rudrappa*** (*supra*) has held at paragraph No.5 to 7, which reads as under:

> *5. Having considered the rival submission and perusal of the material on record, undisputedly, the impugned order dated 14.02.2025 has been passed in the*

[3] **W.P. No.100653/2006 (Disposed on 30.01.2026)**

name of a deceased person, without bringing the legal representatives on record. Law is well settled that an order of adjudication passed in the name of a dead person is a nullity and non est in the eye of law. Though it is true that ordinarily this Court would not exercise its writ jurisdiction under Article 226 of the Constitution of India when an alternative remedy is available, the rule of alternative remedy is not an absolute bar but a self-imposed restriction. Certain exceptions have been carved out to this rule, one such exception being where the impugned order is without jurisdiction.

6. The judgments relied upon by the petitioner squarely applies to the present facts. Though section 93 of the GST Act enables recovery of tax dues from the legal heirs, such recovery can only be undertaken after following due process of law by initiating proceedings against the legal representatives. The said provision cannot cure the fundamental defect of passing an order against the dead person.

7. In the circumstances, the impugned order of assessment having been passed against a dead person, is a nullity and therefore without jurisdiction, squarely falling within the exception to the rule of alternative remedy."

7. In the present case, the impugned order is passed on 22.12.2023 in the name of Raju S/o Basavaraj Kariyannavar, who died on 27.02.2019

(Annexure-A) without bringing the legal representatives on record. In the circumstances, the impugned order of assessment having been passed against the dead person, is a nullity and therefore, without jurisdiction. Accordingly, this Court pass the following:

ORDER

i. Writ petition is ***allowed***.

ii. The impugned order dated 22.12.2023 (Annexure-B) passed in the name of deceased Raju S/o Basavaraj Kariyannavar is hereby ***set-aside.***

iii. Liberty is reserved to the respondent-authority to issue notice to the legal representatives of deceased taxpayer, namely Raju S/o Basavaraj Kariyannavar and thereafter proceed in accordance with law.

Sd/-
JUSTICE K.S.HEMALEKHA

AM/-
Ct:VH
List No.: 1 Sl No.: 34