

**Appeal can be filed if the Authority acknowledged that key personnel responsible for compliance has died**

The Hon'ble Madras High Court in the case of the *Samadhu Medical v. Deputy Tax Officer [Writ Petition NO. 35228 OF 2023 DECEMBER 18, 2023]* held that the dispute arising from GSTR-3B and GSTR-2A mismatch particularly due to the key personnel responsible for compliance met with demise, the aggrieved shall present their case before the Appellate Authority for appeal where authorities concerned shall entertain the same without insisting upon limitation aspect, if any and dispose of the same, in accordance with law, after affording an opportunity.

**Facts:**

M/s. Samadhu Medicals ("**the Petitioner**") faced mismatch in the FORM GSTR-3B and FORM GSTR-2A statements in the Assessment Year 2019-20. All the notifications with respect to the mismatch were intimated on the mobile number of the Petitioner's staff, Mr. Paneerselvam ("**the Deceased**") who passed on April 30, 2019. Other notifications were sent to the mail ID provided by the Petitioner, which belonged to one Mr. Sivakumar ("**the Deceased**"), consultant of the Petitioner, who also expired on February 5, 2022. Hence, the Petitioner was not aware of the initiation of proceedings ("**Impugned Proceedings**") against him and only when the Order ("**Impugned Order**") was passed to attach the Petitioner's bank account, the Petitioner came to know about the Impugned Proceedings.

The Deputy Tax Officer ("**the Respondent**") contended that the communication with regard to the initiation of the Impugned Proceedings was sent only to the number/mail address provided by the Petitioner and subsequent to the death of the persons being engaged by the Petitioner for filing their returns. The Petitioner ought to have taken steps by engaging any other accountant. Hence, the Petitioner cannot plead ignorance of the Impugned Orders.

Hence, aggrieved by the Impugned Order the present writ was filed by the Petitioner.

**Issue:**

Whether Appeal can be filed before the Appellate Authority if the prior proceedings have not been followed by the aggrieved due to the key personnel responsible for compliance has died?

**Held:**

The Madras High Court in ***Writ Petition NO. 35228 OF 2023 DECEMBER 18, 2023*** held as under:

- Noted that, the Petitioner to agitate their case before the Appellate Authority by way of appeal. Allowed the Petitioner to approach the Appellate Authority by way of filing an appeal within a period of thirty days from the date of receipt of a copy of this order.
- Held that, the Authorities concerned shall entertain the same without insisting upon limitation aspect, if any, and dispose of the same, in accordance with law, after affording an opportunity to the Petitioner. Hence, the writ petition is disposed of.



**Author can be reached at [info@a2ztaxcorp.com](mailto:info@a2ztaxcorp.com))**

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