IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 13.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.16230 of 2016
and
W.M.P.No.14017 of 2016

Mr.Sudhakar Mukundan
Legal Rep. of Late Parthasarathy Mukundan
No.5/1, Balaji Nagar, 1st Street
Ekkattuthangal, Chennai - 600 032 .. Petitioner

Vs.

The Assistant Commissioner of Income Tax
Non-Corporate Circle-13(1)
Nungambakkam, Chennai - 600 034 .. Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records of the respondent in the impugned assessment order in PAN No.AAUPM1294L dated 30.03.2016 as the same has been passed demanding tax from a deceased person and quash the same.

For Petitioners : M/s.G.Varshika
for M/s..K.Vaitheeswaran

For Respondents : Mr.M.Swaminathan
Assisted by
M/s.V.Pushpa

O R D E R

Heard Mr.K.Vaitheeswaran, learned counsel for the petitioner and Mr.M.Swaminathan, learned counsel for the respondent. With the consent of the learned counsel appearing on either side, the Writ Petition itself is taken up for final disposal.

2.The petitioner, who is the son of Late Parthasarathy Mukundan, has filed this writ petition challenging the assessment order passed by the respondent for the Assessment Years 2013-2014. The petitioner has questioned the impugned order of assessment on the ground that it has been passed on a dead person and therefore, the entire proceeding is a nullity in the eye of law.

3. The learned counsel for the petitioner in the course of arguments submitted that the petitioner had sent a letter to the respondent on 18.01.2016 stating that Parthasarathy Mukundan, the

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assessee, passed away on 13.08.2014 and giving the details of his legal representatives and the properties and other assets. According to the petitioner, the letter dated 18.01.2016 was served on the respondents/Assessing Officer. However, no proof has been produced by the petitioner to show that the letter dated 18.01.2016 has been served on the respondent. Therefore, the respondent cannot be faulted for passing the impugned Assessment Order in the name of a dead person. However, the fact being that the Assessee is no more cannot be lost sight of, especially when the same is brought to the notice of this Court and the petitioner has produced the Death Certificate and Legal Heirship Certificate, which show that Parthasarathy Mukundan passed away on 31.08.2014 leaving behind his wife Pamela Mukundan, daughter Sujatha Srinivasan and son Sudhakar Mukundan as his three legal heirs. Therefore, this Court is of the view that the respondent should redo the entire assessment after affording an opportunity to the legal heirs of the deceased assessee. For that reason alone, this Court is inclined to interfere with the impugned proceedings.

Accordingly, the writ petition is allowed and the impugned proceeding is held to be nullity in the eye of law since it has been passed against a dead person and the same is set aside. The petitioner and other two legal heirs of Parthasarathy Mukundan, the deceased assessee, are directed to appear before the respondent on any one of the working days within a period of two weeks from the date of receipt of a copy of this order with necessary records. Upon their appearance, the respondent shall fix a date, collect the relevant details regarding the legal heirs of the deceased assessee and thereafter, issue notice to the legal heirs of the deceased assesee and proceed to complete the assessment in accordance with law. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Asst.Registrar (CS V )

/true copy/

Sub Asst. Registrar

gpa

To

The Assistant Commissioner of Income Tax
Non-Corporate Circle-13(1)
Nungambakkam, Chennai - 600 034

1 cc to M/s.K. Vaitheeswaran, Advocate, Sr. 31805
1 cc to M/s. M. Swaminathan, Advocate, Sr. 32112

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