BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 15.06.2021
CORAM :
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD) No.7015 of 2020
and
W.M.P(MD)No.6441 of 2020

M.Alagar
... Petitioner

Vs.

The Assistant Commissioner of Income Tax,
Circle - I, Karaikudi,
Sivagangai District.
... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to quash the order dated 26.12.2019 made in ITBA/AST/S/143(3)/2019-20/1023149687(1) and consequential order issued by the respondent in ITBA/COMF/17/2019-20/1026679230(1) dated 16.03.2020 under Section 226(3) of Income Tax Act and forbear the respondent to proceed pursuant to the illegal assessment order in ITBA/AST/S/143(3)/2019-20/1023149687(1) dated 26.12.2019.

For Petitioner : Mr.T.Bashyam
For Respondents : Mrs.S.Srimathy
Standing Counsel

ORDER

This Writ Petition has been filed by the petitioner to quash the assessment order passed by the respondent, dated 26.12.2019 in ITBA/AST/S/143(3)/2019-20/1023149687(1) and the consequential notice dated 16.03.2020 issued in ITBA/COMF/17/2019-20/1026679230(1) and to forbear the respondent from proceeding further pursuant to the assessment order in ITBA/AST/S/143(3)/2019-20/1023149687(1) dated 26.12.2019.

2.According to the petitioner, his father namely Velu Konar Malaiyandi was a civil Contractor and proprietor of a rice mill and he was an assessee under the respondent. He had filed his returns on 27.10.2017 for the assessment year 2017-2018 declaring a total income of Rs.29,44,118.00/-. Thereafter, a notice under Section 143 (1) of the Income Tax Act was issued on 13.08.2018. While the matter stood thus, the father of the petitioner died on 21.10.2019. Immediately, the petitioner informed the Assessing Officer about the death of his father and the legal heirship certificate was also produced on 05.12.2019. In spite of the same, the Assessing

Officer proceeded to pass the assessment order in the name of the petitioner's father, who died on 21.10.2019. Hence, this writ petition.

3. The learned counsel for the petitioner would state that the Assessing Officer proceeded to pass the assessment order in the name of the petitioner's father in spite of the intimation given by the petitioner about the death of his father and therefore, the same is liable to be quashed.

4. Mrs.S.Srimathy, the learned Standing Counsel appearing for the respondent would state that the impugned order may be set aside and the matter may be remanded back to the respondent for passing orders afresh after giving opportunity of hearing to the legal heirs of the deceased assessee.

5. Heard the submissions made on either side and perused the materials available on record.

6. Considering the submissions of the learned counsel for the petitioner as well as the learned standing counsel for the respondent, the impugned order passed by the respondent dated 26.12.2019 made in ITBA/AST/S/143(3)/2019-20/1023149687(1), is hereby set aside and the matter is remanded back to the respondent to pass orders afresh by giving opportunity of hearing to the legal heirs of late.Venu Konar Malaiyandi, the father of the petitioner. Such exercise shall be completed by the respondent, within a period of six months from the date of receipt of a copy of this order.

7. With the above direction, the writ petition is disposed of. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note:(i) In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Assistant Commissioner of Income Tax,
Circle - I, Karaikudi,Sivagangai District.

+1 CC to M/s.S.SRIMATHY, Advocate (SR-19398[F] dated 16/06/2021)

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15.06.2021

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