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ORDER SHEET
WPO 1999/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

BISWANATH SAHOO
Vs
UNION OF INDIA AND ORS

BEFORE:
The Hon'ble JUSTICE MD. NIZAMUDDIN
Date : 20th April, 2022.

APPEARANCE:
Mr. Pranit Bag, Adv.
Mr. Subhash Agarwal, Adv.
Mr. Brijesh Kumar Singh, Adv.
...for the petitioner

Mrs. Smita Das De, Adv.
...for the respondnets

The Court : Heard learned Advocates appearing for the parties.

In this matter, petitioner has challenged the impugned notice dated 21st September, 2021 under Section 142(1) of the Income Tax Act, 1961, relating to the assessment year 2010-11 and all subsequent proceedings including assessment order and penalty proceedings on the ground that the very initiation of the proceeding itself is bad and not sustainable in law for the reason that the same has been initiated against the dead person. It appears from record that the noticee has already expired on 14th July, 2021 and the impugned notice under Section 142(1) and all subsequent notices and orders were passed after the expiry of the noticee who has expired on 14th

July, 2021. Petitioner has annexed the death certificate of the noticee being Annexure P1 to the writ petition.

Mrs. Smita Das De, learned Advocate appearing for the respondents is not in a position to contradict this admitted factual position substantiated by record that the noticee is a dead person and it is also the settled legal position that no proceedings can be initiated against a dead person.

Considering the submissions of the parties, this writ petition being WPO No. 1999 of 2022 is disposed of by quashing the impugned notice dated 21st September, 2021 under Section 142(1) of the Income Tax Act, 1961 and all subsequent proceedings including penalty proceeding.

Quashing of the impugned proceeding will not prevent the respondent assessing officer to initiate any fresh proceeding in accordance with law.

(MD. NIZAMUDDIN, J.)

Sbghosh