

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.15262 of 2020

Diewan Chand Gupta (Dead)@ Dewan Chand Gupta @ Diwan Chand Gupta @ Dewan Chand Agarwala represented through his LR Sri Susil Kumar Agarwal ***Petitioner***

M/s. K. Kurmy, Advocate and associates

-versus-

The Principal Commissioner of Income Tax, Sambalpur and others ***Opposite Parties***

Mr. S.S. Mohapatra, Sr. Standing Counsel

**CORAM:
THE CHIEF JUSTICE
JUSTICE M.S. RAMAN**

**ORDER
15.11.2022**

Order No.

05. 1. The impugned assessment order was admittedly passed against a dead person. In fact, the notice preceding it was also issued to a dead person. The Assessee in whose name the notice was issued expired on 15th April 2018 whereas notices were issued on 9th August 2018, and 26th September, 2018.
2. The legal heir certificate dated 29th June 2019, as well as the Assessee's death certificate dated 15th April 2018, have been placed on record and have not been disputed by the Department.
3. In that view of the matter, in view of the settled legal position that proceedings cannot be initiated and continued against a dead person, the impugned notices dated 9th August 2018 and 26th

September 2018, and the consequential assessment order dated 17th December 2019 and demand notice issued by Opposite Party No.2 are hereby quashed.

4. The writ petition is disposed of in the above terms.

5. Issue urgent certified copy of this order as per rules.

(Dr. S. Muralidhar)
Chief Justice

(M.S. Raman)
Judge

S.K. Guin

