WPA 14141 Of 2023

19.07.2023
Sl no. 5
Ct no. 2
P.M.

Mr. Sushil Kumar Gupta
- Vs -
Income Tax Officer, Ward 44(1), Kolkata & Ors.

Mr. Avra Mazumder,
Ms. Alisha Das,
Mr. Samrat Das,
Mr. Suman Bhowmik
... for the petitioner

Mr. Tilak Mitra
... for the respondent

Heard learned advocate appearing for the parties.

By this writ petition, petitioner has challenged the impugned assessment order dated 28th March, 2023, under Section 147 read with Section 144 of the Income Tax Act, 1961 relating to the assessment year 2013-2014 on the ground that the aforesaid impugned assessment proceeding is null and void from the initiation of the impugned proceeding by issuance of notice under Section 148A(b) of the Act issued on 18th May, 2022 since much before initiation of proceeding the noticee Nirmala Gupta had expired on 3rd March, 2019 and petitioner who is the husband of the noticee was not aware of issuance of any notice under Section 148A(b) of the Act or the order under Section 148A(d) of the Act and he came to know about the impugned proceeding for the first time after the service of notice under Section 142(1) of the Act.

Petitioner submits that he is the husband and legal heirs of the noticee and his PAN number is ADBPG6819R and if at all any proceeding is liable to be initiated the same should be initiated against the petitioner and submits that he has given his detail in the copy of this writ petition as well as he is ready and willing to furnish any further details if asked by the assessing officer concerned to initiate any fresh proceeding in accordance with law.

Mr. Mitra, learned advocate appearing for the respondents Income Tax Authority is not in a position to deny the aforesaid legal and factual position that before initiation of the impugned proceeding the noticee had died and that under the law no proceeding can be initiated against a dead person.

Considering the facts and circumstances of this case and submission of the parties this writ petition being WPA No. 14141 is disposed of by setting aside the aforesaid impugned assessment proceeding including the assessment order dated 28th

March, 2023 with liberty to the Assessing officer concerned to initiate any fresh proceeding in accordance with law against the writ petitioner/legal representatives and the petitioner shall cooperate with the assessing officer in furnishing any document or details if asked for by the assessing officer concerned.

With this observation and direction this writ petition stands disposed of.

(Md. Nizamuddin, J.)