IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.10.2023

CORAM:

THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY

W.P.No.24251 of 2023

and

W.M.P.Nos.23717 and 23718 of 2023

Smt.Sandhya Sailesh
L/R of Late Shri.Yelchur Ranganathan
No.11, Jeevarathinam Nagar
Adyar, Chennai – 600 020. ... Petitioner

-Vs-

Income Tax Officer
Corporate Ward 3(3)
121, Mahatma Gandhi Road
Nungambakkam
Chennai – 600 034. ... Respondent

PRAYER :

Writ Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorari to call for the records on the file of the respondent and to quash the impugned Assessment Order passed by the respondent under Section 147 rws 144 dated 31.05.2023, for the AY:2016-17 in PAN of the petitioner AYBPS2857E as the legal heir of the deceased assessee Late Mr.Yelchur Ranganathan bearing PAN of Assessee: AADPR5279B confirming the notice under Section 148 of the Act in DIN & Notice No:ITBA/COM/F/17/2022-23/1044084569(1) dated 26.07.2022.

For Petitioner : Mr.G.Ashokapathy,
for M/s.PASS Associates.

For Respondents : Ms.S.Premalatha, Jr.Standing Counsel,
for Mr.R.S.Balaji, Sr. Standing Counsel.

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ORDER

This Writ Petition has been filed challenging the impugned assessment order dated 31.05.2023 passed by the respondent under Section 147 r/w Section 144 of the Income Tax Act, 1961 for the Assessment Year 2016-17. The main challenge of the petitioner in the present case is that the impugned assessment order came to be passed in the name of the petitioner viz., Smt.Sandhya Sailesh as legal representative of Late Shri.Yelchur Ranganathan.

2. Mr.G.Ashokapathy, learned counsel for the petitioner would submit that the show cause notices were originally issued on 15.02.2023 and

29.03.2023 in the name of Shri.Yelchur Ranganathan for the Assessment Year 2016-17. The said Shri.Yelchur Ranganathan had passed away on 19.08.2019. While so, to the shock and surprise of the Writ Petitioner, the impugned Assessment Order came to be passed by the respondent on 31.05.2023 under Section 147 r/w Section 144 for the AY:2016-17 in PAN of the petitioner AYBPS2857E as the legal heir of the deceased assessee Late Mr.Yelchur Ranganathan. The main contention of the petitioner was that even though she is the adopted daughter of the deceased Mr.Yelchur Ranganathan and there are two other legal heirs apart from the petitioner, the impugned Assessment order was issued in the name of the petitioner alone, that too without issuing any show cause notice and without affording an opportunity of personal hearing. Learned counsel for the petitioner would further contend that the impugned Assessment order was merely communicated to the email-id of her Husband and therefore, it has to be quashed.

3.On the other hand, learned standing counsel representing on behalf of the respondent would submit that the department can proceed against the legal heirs of the deceased assessee as prescribed under Section 159 of the Income Tax Act, 1961. Therefore, in the event, this Court is inclined to set aside the impugned Assessment Order, the learned standing counsel seeks permission of this Court to proceed against the legal heirs of the deceased, after following the due procedures laid down under the Act.

4.I have duly considered the submissions made by the learned counsel appearing on behalf of the petitioner and the learned standing counsel appearing on behalf of the respondent/department.

5.The law is well settled on the point that the legal representative of the deceased shall be liable to pay any sum which the deceased would have been liable to pay if he/she had not died, as prescribed under Section 159 of the Income Tax Act, 1961. However, the issue in the present case is that the show cause notices were originally issued on 15.02.2023 and 29.03.2023 in the name of Shri.Yelchur Ranganathan for the Assessment Year 2016-17. While so, the said Shri.Yelchur Ranganathan had passed away on 19.08.2019 and to the shock and surprise of the Writ Petitioner, the impugned Assessment Order came to be passed by the respondent on 31.05.2023 under Section 147 r/w Section 144 for the AY:2016-17 in PAN of the petitioner AYBPS2857E as the legal heir of the deceased assessee Yelchur Ranganathan. It is pertinent to note that show cause notice was not issued to the petitioner and no opportunity of personal hearing was offered to the petitioner before the impugned Assessment Order dated 31.05.2023 came to be passed in the name of the petitioner as the legal heir of the deceased Yelchur Ranganathan. Hence, the impugned Assessment Order is liable to be quashed on this ground itself. Further, it is to be noted that on 27.05.2023, the respondent had issued show cause notice to all the legal heirs of the deceased Yelchur Ranganathan. Learned counsel for the petitioner fairly submits that Ms.R.Lakshmi Priya and Mr.R.Suriya Prakash are the other legal heirs of the deceased Yelchur Ranganathan and they are residing at Door No.18, D-1, 3rd Main Road, Kasthuribai Nagar, Adyar, Chennai – 600 020.

6.In view of the aforestated position, this Court is inclined to quash the impugned Assessment Order dated 31.05.2023 and the respondent shall continue the proceedings subsequent to the issuance of show cause notice dated 27.05.2023 issued in the name of all the legal heirs viz., the petitioner herein (Smt.Sandhya Sailesh), Ms.R.Lakshmi Priya and

Mr.R.Suriya Prakash and proper communication is directed to be sent to all the legal heirs and necessary opportunity of hearing shall also be given before passing the Assessment Order.

7.The Writ Petition is disposed of accordingly. Consequently, connected miscellaneous petitions are closed. No Costs.

19.10.2023

Neutral Citation : Yes/No
Internet : Yes/No
Index : Yes/No
pgp

To

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KRISHNAN RAMASAMY, J.

pgp

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