IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.10583 of 2024 and
W.M.P.Nos.11616 & 11617 of 2024

V.Purushothaman ...Petitioner

Vs.

1.Income Tax Officer,
Non-Corp Ward 15(1),
Chennai-Wanaparthy Block,
121, Mahatma Gandhi Road,
Nungambakkam, Chennai-600 034.

2.Assessment Unit,
Income Tax Department,
Ministry of Finance,
Government of India,
New Delhi. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 1st respondent in ITBA/AST/F/148A(SCN/2022-2023/1049831157(1) culminating in the proceedings of the 2nd respondent in ITBA/AST/S/147/2023-2024/1062382120(1) along with the consequential penalty proceedings of the 2nd respondent in ITBA/PNL/S/271(1)(c)/2023-2024/1062382451(1) and quash the notice dated 16.02.2023 issued by the 1st respondent and the consequential order dated 11.03.2024 passed by the 2nd respondent herein along with the consequential penalty proceedings dated 11.03.2024 for the Assessment Year 2016-2017.

For Petitioner : Ms.Hema Muralikrishnan

For Respondents : Mrs.S.Premalatha,
Junior Standing Counsel

ORDER

An assessment order dated 11.03.2024 and the consequential penalty proceedings dated 11.03.2024 are challenged in this writ petition. Reassessment proceedings against the father of the petitioner were initiated pursuant to notice dated 16.02.2023 under Section 148A(b) of the Income Tax Act, 1961.

2. The petitioner asserts that such notice was replied to on 03.03.2023 by informing the respondents that the petitioner's father died on 21.11.2015. Thereafter, pursuant to show cause notice dated 04.09.2023, the petitioner, by reply dated 11.09.2023, reiterated that his father died in 2015 and that the notice is invalid on such ground. The

impugned orders were issued in these facts and circumstances.

3. By referring to the petitioner's reply dated 03.03.2023, learned counsel for the petitioner points out that such reply also bears the acknowledgment of the income tax officer. She further submits that the impugned assessment order and penalty proceedings are vitiated since such proceedings were initiated against a dead person.

4. Mrs.S.Premalatha, learned junior standing counsel, accepts notice for the respondents. She points out that the assessment is being undertaken by the National Faceless Assessment Unit. Consequently, she submits that it would not be possible to take into account communications addressed through post by the petitioner herein. She further submits that the death of the assessee was not communicated to the Income Tax Department by the legal heirs until 2023.

5. The petitioner has placed on record death certificate dated 07.09.2023. Such certificate discloses that Mr.Veeraraghavan died on 21.11.2015. The legal heirship certificate dated 06.01.2016 reveals that the late Mr.Veeraraghavan left behind five class-1 legal heirs. Such legal heirs include the petitioner herein.

6. From the replies dated 03.03.2023 and 11.09.2023, it is clear that the petitioner informed the income tax officer about the death of the assessee on 21.11.2015. Since the impugned assessment order and impugned penalty proceedings were issued against a dead person, the same are unsustainable.

7. Therefore, the orders impugned herein are set aside by leaving it open to the respondents to initiate proceedings in accordance with law against the legal heirs of the assessee. All contentions are left open to the petitioner and the other legal heirs in such proceedings.

8. The writ petition is disposed of on the above terms without any order as to costs. Consequently, connected miscellaneous petitions are closed.

22.04.2024

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

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To

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SENTHILKUMAR RAMAMOORTHY,J.

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