IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2024

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THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.268 of 2023

K.Subbathal (Died)
1.K.Gopal
2.Nithya
3.N.Valumani
4.M.Loganathan
5.P.Jayashree
6.Minor A.Harsan
(Cause title accepted vide court order dated 23.12.2023 made in CMP 22406 of 2022 by SMSJ) ... Petitioners

-Vs-

Airport Authority of India
Represented by Airport Director
Coimbatore International Airport
Coimbatore. ... Respondent

Prayer : Civil Revision Petition under Article 227 of the Constitution of India against the fair and decreetal order dated 28.02.2022 made in EA No.325 of 2023 in REP No.155 of 2011 in LAOP No.141 of 2000 on the file of the Second Additional Sub Court, Coimbatore.

For Petitioners	:	Mr.Ramanan C.A. for Mr.N.Manoharan
For Respondent	:	Mr.T.Thiyagarajan

ORDER

This revision has been filed against the order passed by the learned II Additional Subordinate Judge, Coimbatore in R.E.A.No.325 of 2013 in R.E.P.No.155 of 2011.

2. The original petitioner Subbathal was the judgment ceditor in L.A.O.P.No.141 of 2000. She was successful in obtaining a direction to get the compensation amount deposited as per the Award. Airport Authority of India / petitioner before the trial Court and the respondent herein was called upon to pay a sum of Rs.5,000/- per cent together with solatium at 30% and additional market value of 12%, in all amounting to Rs.3,46,873/-. Since this amount together with interest had not been paid, execution petition was filed by the civil revision petitioners. In the execution petition, the civil revision petitioners claimed a sum of Rs.10,71,705/- being the amount they are entitled to under the award.

3. It is not in dispute that the respondent has paid a sum of Rs.8,29,802/- after deducting a sum of Rs.2,07,450/- towards TDS (Tax Deducted at Source) and has brought the amount to the credit of the L.A.O.P. However, feeling aggrieved by the fact that the executing Court has not taken into consideration the amount of TDS that had been paid by the Airports Authority of India in terms of Section 194LA of the Income Tax Act, 1961, a review petition was filed before the executing Court.

4. The case of the respondent Airport Authority of India is that the petitioners did not furnish their PAN numbers and therefore it had to deduct 20% in terms of the Act.

5. On service of summons in the review petition, a counter was filed by the respondents therein / petitioners herein that they had in fact furnished the PAN numbers to the Airports Authority of India and in the counter, they gave the details of their PAN numbers.

6. After hearing the arguments on either side, the learned Subordinate Judge came to the conclusion that the petitioners have not furnished their PAN numbers and therefore allowed the review petition and upheld the deposit of Rs.2,07,450/- towards TDS. Aggrieved by the order under review, the present revision.

7. Heard Mr.Ramanan for the petitioners and Mr.T.Thiyagarajan for the respondent Airport Authority of India.

8. Two issues arise in this case. First is that the learned Judge has not considered the primary objection that had been raised by the civil revision petitioners that Section 194LA of the Income Tax Act dealing with deduction of TDS on awards apply only to non-agricultural land. This is clear from a bare perusal of the very Section.

9. Secondly, when the petitioners have given the details of their PAN numbers in the counter affidavit itself, the learned Judge has come to the conclusion that the petitioners did not furnish the same to the respondent. He would rely upon Ex.P1 which is a letter that had been sent by the Airport Authority of India calling upon the claimants to furnish their PAN Numbers. The reply, unfortunately has not been produced before me and I presume it has not been produced before the learned Subordinate Judge also. The learned Subordinate Judge could have taken cognizance of the fact that the PAN Nos. of the legal representatives of Subbathal, the original claimant has been set forth in detail in Para 7 of the counter affidavit. The said para also dealt with the issue that for agricultural land, there is no question of deduction of TDS. The order does not reflect the consideration of both these materials.

10. Therefore, I am of the view that the order of the learned trial Judge requires interference. Accordingly, the order passed in E.A.No.325 of 2013 in R.E.P.No.155 of 2011 in LAOP No.141 of 2000 is set aside. The application is restored on to the file of the learned II Additional Sub Court, Coimbatore. The learned Subordinate Judge shall deal with Section 194LA of the Income Tax Act and in particular, the factum where the PAN Numbers had been furnished by the petitioners to the respondent Airport Authority of India and if he comes to the conclusion that the PAN Numbers had in fact been furnished, he shall pass fresh

order in accordance with law. The learned Judge will also take into consideration the judgment of the Supreme Court in **Union of India -vs- Hari Singh (2018) 15 S.C.C.201.**

11. The Civil Revision Petition is allowed. No costs. The matter is remitted to the file of the learned II Additional Subordinate Judge, Coimbatore for fresh disposal in accordance with law. By consent of both sides, the I.A. shall be heard on **01.07.2024**. The learned Subordinate Judge shall take into consideration that the acquisition proceedings have been pending for the past 24 years and shall pass an order on or before **29.07.2024** and submit a report to this Court on **31.07.2024.** Call this matter on **31.07.2024** for compliance.

04.06.2024

Index : Yes/No
Neutral Citation : Yes/No

KST

To

The II Additional Subordinate Judge
Subordinate Court, Coimbatore.

V. LAKSHMINARAYANAN, J.

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