IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2024

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE C. SARAVANAN

W.A.No.2506 of 2024

Income Tax Officer
Corporate Ward 6(3)
No.121, Mahatma Gandhi Road
Nungambakkam, Chennai – 600 034. .. Appellant

Vs.

Pandian Anbalagan
Plot No.2, Door No.3, White filed
Kamarajar Nagar, Mathavaram
Chennai – 600 051. .. Respondent

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 03.10.2023 in W.P.No.11841 of 2022.

For the Appellant : Mr.V.Mahalingam
and Ms.N.Premalatha

For the Respondents : Ms.Amritha Sathyajth
for Mr.Suhrith Parthasarathy

JUDGMENT

(Judgment of the Court was authored by C.SARAVANAN, J.)

This intra-Court appeal has been directed against the order dated 03.10.2023 made in W.P.No.11841 of 2022.

2. The said writ petition has been filed by the Director of M/s.Speed and Safe Freight Systems India Private Limited. It appears that the said Company has been struck off from the official Register of Companies, perhaps on account of the defaults committed by the Director. The arguments before the Writ Court was that the Company ceased to exist as it has been struck off from the Register of Companies.

3. Before the Writ Court, the learned Senior Standing Counsel appearing for the respondent Revenue had cited Section 176 of the Income Tax Act, 1961. Therefore, interpreting Section 176 of the Income Tax Act, 1961 and Section 252 of the Companies Act, 2013, the learned Writ Court has set aside the assessment order.

4. We have heard Mr.V.Mahalingam and Ms.N.Premalatha, learned counsel for the appellant and Ms.Amritha Sathyajth, learned counsel appearing for Mr.Suhrith Parthasarathy, learned counsel for the respondent.

5. We are of the view that the order is liable to be set aside. It is not open for the Director of a defaulting Company, whose

name is struck off from the official Register of Companies, to set aside the order. If at all, it was open for the petitioner herein to revive the Company and thereafter espouse the cause of the Company. As far as the independent rights of the Director under Section 179 of the Income Tax Act, 1961, is concerned, it is open for the respondent to defend itself if any proceedings are initiated under Section 179 of the Income Tax Act, 1961.

6. The writ appeal, accordingly, stands allowed with the above observations. There shall be no order as to costs.

(R.S.K., J.) (C.S.N, J)
05.11.2024

Neutral Citation:Yes/No

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R. SURESH KUMAR, J.
AND
C. SARAVANAN, J.

(drm)

W.A.No.2506 of 2024

05.11.2024