BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.4481 of 2024
and
W.M.P.(MD)Nos.4327 and 4328 of 2024

K.A.Meharaj ... Petitioner

versus

The Income Tax Officer,
Non-Corp Ward 3(1) CHE,
176, Vandikara Street,
Chalai Bazaar,
Ramanathapuram – 623 501. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records relating to impugned assessment order of the respondent vide ITBA/AST/S/147/2023-24/1060354661(1) dated 30.01.2024 and quash the same as illegal.

For Petitioner : Mr.S.Satheesh Kumar

For Respondent : Mr.N.Dilipkumar

ORDER

One K.A.Meharaj, wife of Varusai Nagoor Gani Raja Mohamed, has filed this writ petition, challenging the assessment order passed under Section 147 read with Section 144 of the Income Tax Act, dated 30.01.2024, by the Income Tax Officer, Ramanathapuram, for the Assessment Year 2015-2016.

2. The learned counsel appearing for the petitioner submits that the petitioner's husband, Varusai Nagoor Gani Raja Mohamed, died on 10.12.2023. The impugned order has been passed on 30.01.2024 as against the dead person. Therefore, the impugned order dated 30.01.2024 is of nullity and the same is liable to be set aside.

3. The learned counsel appearing for the respondent submits that the Assessee, Varusai Nagoor Gani Raja Mohamed, was put on notices for enquiry and he has not appeared for the enquiry and therefore, the

impugned assessment order has been passed. He further submits that the officials were not aware of the fact that the Assessee was not alive at the time of passing the impugned assessment order. He fairly submits that the impugned assessment order may be set aside with liberty to the respondent to proceed with a fresh proceedings as against the legal representatives of the deceased Varusai Nagoor Gani Raja Mohammed.

4. The learned counsel for the petitioner has also raised several other grounds assailing the assessment order.

5. Since this Court is convinced with the ground that the impugned assessment order has been passed as against the dead person, the impugned assessment order dated 30.01.2024 is set aside on this ground alone and it is left open to the petitioner to raise all other grounds if any further notice is issued.

6. Accordingly, this writ petition is allowed. The respondent is at liberty to proceed with a fresh proceedings as against the legal representatives of the deceased Varusai Nagoor Gani Raja Mohamed. No costs. Consequently, connected miscellaneous petitions are closed.

27.02.2024

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NCC : Yes / No.
Index : Yes / No.
Internet : Yes / No.

To

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B.PUGALENDHI, J.

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