BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.7798 of 2024

A.Karanthaimalai ... Petitioner

Vs.

1.The Branch Manager,
The United India Insurance Company Ltd.,
Divisional Office,
103-B1, Union Bank of India Building Upstairs,
Madurai Road, Virudhunagar.

2.The Income Tax Department,
No.2, C.R.Building,
V.P.Rathinasamy Nadar Road,
Bibikulam, Madurai 625 002. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent herein to consider the petitioner's representation dated 26.02.2024 within a reasonable time as fixed by this Court.

For Petitioner : Ms.K.R.Shivashankari

For Respondents : Mr.C.Karthick,
Standing Counsel for R1.
Mr.N.Dilipkumar,
Standing Counsel for R2.

ORDER

Heard the learned counsel on either side.

2.The petitioner's son / Ramasamy met with an accident on 24.09.2018. He was a minor then. M.C.O.P.No.15 of 2019 was filed before the jurisdictional Tribunal. Award was passed on 06.10.2020. The petitioner's son has since passed away. The insurer had deposited the TDS amount of Rs.2,47,581/- with the Income Tax Department. The petitioner seeks Form 16-A. The first respondent did not respond to the said request. It was probably because Form 16-A would be in the name of Ramasamy whereas the persons making the request was the petitioner herein, the father. That led to the filing of this writ petition.

3.This Court called upon the learned standing counsel for Income Tax Department to obtain instructions in this regard. The learned standing counsel made available the communication from the department. It reads as follows:-

> *"1. 1. The petitioner needs to obtain Form 16-A in the name of the Petitioner in the capacity of legal heir to the deceased person. The petitioner needs to register in the e-filing portal of income tax department, as legal heir to the person deceased, after obtaining No Objection Certificate from other Legal Heirs.*

2. Later, the petitioner may file a petition u/s.119(2)(b) before the PCIT, Madurai-1, Madurai for the condonation of delay and then file a return of income to claim such refund of TDS.

3. Then, The Pr.CIT, Madurai-1, Madurai will call for report in this respect from the Jurisdictional Assessing Officer. When the report is received by the PCIT, Madurai-1, Madural, an order would be issued to the assessee has to file an Income Tax Return. That return of income would be processed by the CPC, Bangalore and refund would be issued to the Registered Legal Heir."

4.The learned standing counsel for the Income Tax Department submitted that Form 16-A can be issued in the name of the deceased addressed to the petitioner herein within. The impediment faced by the insurance company is that the deceased did not have any PAN in his name. In view of the aforesaid unfortunate development, the first respondent can very well mention the PAN of the petitioner herein in the Form 16-A to be issued by them. The petitioner has already furnished his PAN details. The first respondent shall issue Form 16-A as mentioned above within a period of four weeks from the date of receipt of a copy of this order.

5.This writ petition is allowed accordingly. No costs.

05.04.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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