IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
****

202 **IOIN-1-CWP-15776-2003 in/and**
CWP-15776-2003
Date of Decision: 11.11.2025

ANITA RANI ...Petitioner

Vs.

INCOME TAX OFFICER AND ORS. …Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL
HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

Present:- Mr. Ishwinderpal Singh, Advocate for
Mr. Alok Mittal, Advocate
for the petitioner

Mr. Saurabh Kapoor, Advocate with
Mr. Rana Gurtej Singh, Advocate,
Ms. Muskaan Gupta, Advocate,
Ms. Muskan Chauhan, Advocate and
Mr. Tanya Kumar, Advocate
for the respondent
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JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 09.08.2002 (Annexure P-5) whereby respondent has attached bank account to recover dues of her husband.

2. The respondent-Revenue assessed liability of Rs.1,18,615/- against M/s Sham Lal Siri Ram, Sangrur. The liability could not be recovered from said firm. Krishan Kumar husband of the petitioner was one of the partners of M/s Sham Lal Siri Ram. The respondent on account of non-recovery of aforesaid amount from partnership firm as

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well as its partners served notice dated 09.08.2002 upon Bank informing that a sum of Rs.1,18,615/- is due from Krishan Kumar son of Sham Lal as legal heir of Sham Lal and partner of M/s Sham Lal Siri Ram, Sangrur. There was credit balance in the account of Rs.60,002/-. The account which was attached was a joint account of Krishan Kumar and Anita Rani (petitioner).

3. Learned counsel for the petitioner submits that money lying in the bank account represented rental income. Said income had no concern with liabilities of M/s Sham Lal Siri Ram. There is nothing on record disclosing that petitioner had inherited property from partners of M/s Sham Lal Siri Ram. The respondent could attach property to the extent of estate of partners of M/s Sham Lal Siri Ram.

4. *Per contra*, learned counsel for the respondent submits that petitioner was responsible to prove that she had not inherited property. In the absence of evidence led by petitioner, the respondent was free to attach available properties including bank account.

5. We have heard learned counsel for the parties and perused the record of the case.

6. Section 159 of Income Tax Act, 1961 (in short '1961 Act') creates liability of legal representatives and Section 189 of 1961 Act deals with dissolution of firm or discontinued business. Said sections read as:-

> ***"159. Legal representatives.****—(1) Where a person dies, his legal representative shall be liable to pay any sum which the deceased would have been liable to pay if he had not died, in the like manner and to the same extent as the deceased.*
>
> *(2) For the purpose of making an assessment (including*

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an assessment, reassessment or recomputation under section 147) of the income of the deceased and for the purpose of levying any sum in the hands of the legal representative in accordance with the provisions of sub-section (1),—

(a) any proceeding taken against the deceased before his death shall be deemed to have been taken against the legal representative and may be continued against the legal representative from the stage at which it stood on the date of the death of the deceased;

(b) any proceeding which could have been taken against the deceased if he had survived, may be taken against the legal representative; and

(c) all the provisions of this Act shall apply accordingly.

(3) The legal representative of the deceased shall, for the purposes of this Act, be deemed to be an assessee.

(4) Every legal representative shall be personally liable for any tax payable by him in his capacity as legal representative if, while his liability for tax remains undischarged, he creates a charge on or disposes of or parts with any assets of the estate of the deceased, which are in, or may come into, his possession, but such liability shall be limited to the value of the asset so charged, disposed of or parted with.

(5) The provisions of sub-section (2) of section 161, section 162, and section 167, shall, so far as may be and to the extent to which they are not inconsistent with the provisions of this section, apply in relation to a legal representative.

(6) The liability of a legal representative under this section shall, subject to the provisions of subsection (4) and sub-section (5), be limited to the extent to which the estate is capable of meeting the liability.

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189. Firm dissolved or business discontinued*.—(1) Where any business or profession carried on by a firm has been discontinued or where a firm is dissolved, the 4 [Assessing Officer] shall make an assessment of the total income of the firm as if no such discontinuance or dissolution had taken place, and all the provisions of this Act, including the provisions relating to the levy of a penalty or any other sum chargeable under any provision of this Act, shall apply, so far as may be, to such assessment.*

(2) Without prejudice to the generality of the foregoing sub-section, if the [Assessing Officer] or the [Commissioner (Appeals)] in the course of any proceeding under this Act in respect of any such firm as is referred to in that sub-section is satisfied that the firm was guilty of any of the acts specified in Chapter XXI, he may impose or direct the imposition of a penalty in accordance with the provisions of that Chapter.

(3) Every person who was at the time of such discontinuance or dissolution a partner of the firm, and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax, penalty or other sum payable, and all the provisions of this Act, so far as may be, shall apply to any such assessment or imposition of penalty or other sum.

(4) Where such discontinuance or dissolution takes place after any proceedings in respect of an assessment year have commenced, the proceedings may be continued against the person referred to in sub-section (3) from the stage at which the proceedings stood at the time of such discontinuance or dissolution, and all the provisions of this Act shall, so far as may be, apply accordingly.

(5) Nothing in this section shall affect the provisions of sub-section (6) of section 159."

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From the perusal of above quoted Sections, it is evident that liability of legal representative is confined to value of estate of the deceased. Liability cannot be over and above the assets inherited. The respondent had mechanically attached bank account of the petitioner. There was meagre amount of Rs.60,002/- in the account. The respondent could attach assets of the petitioner which she had inherited from partners of defaulter firm. In the absence of evidence to the effect that petitioner had inherited assets of partners of defaulter firm, there was no reason to attach her bank account.

7. In the wake of above discussion and findings, this Court is of the considered opinion that the instant petition deserves to be allowed and accordingly allowed. The impugned attachment notice is hereby set aside.

8. The respondents are at liberty to initiate recovery proceedings against aforesaid partnership firm, its partners and their legal heirs in accordance with Section 159 read with Section 189 of 1961 Act.

9. Pending application(s), if any, stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

(AMARINDER SINGH GREWAL)
JUDGE

November 11, 2025
Deepak DPA

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No

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