WPA 26463 of 2024

Subhadeep Deb
v.
Union of India & Ors.

03.02.26
Sl-06
Ct.551
(S.R.)

Mr. Debasish Ghosh
Mr. Subhajit Roy ... for the petitioner.

Mr. Prithu Dudhoria
... for the CGST Authority.

1. Affidavit of service filed in Court today is taken on record.
2. This writ petition assails an assessment order dated February 29, 2024 passed under Section 147 read with Section 144 and Section 144B of the Income Tax Act, 1961 (hereafter the "said Act of 1961") for the assessment year 2019-20 as well as the subsequent order dated June 29, 2024 under Section 272A(1)(d) and order dated July 03, 2024 under Section 270A of the said Act of 1961 on the ground that the assessment proceeding has been initiated and the orders impugned have been passed against a dead person.
3. It is submitted by Mr. Ghosh, learned advocate appearing for the petitioner that the petitioner's father i.e. Pijush Kanti Deb breathed his last on August 9, 2018 (hereafter "the original assesse"). It is submitted by Mr. Ghosh that at the relevant point of time when notices for reopening of assessment proceedings had been issued against

the original assessee, the petitioner was working for gain at Bengalore and, as such, he had no knowledge of initiation of such proceedings against his deceased father.

4. It is further submitted that the petitioner came to know about such proceedings only in the month of August 2024 upon a notice under Section 133(6) of the said Act of 1961 being issued to the employer of the petitioner's father i.e. the National Airport Authority.

5. Mr. Ghosh invites the attention of this Court to the response furnished by the National Airport Authority to a query put to it by the respondent Income Tax Authorities by way of the notice under Section 133(6) of the said Act of 1961 to submit that as far back as on December 28, 2023, the employer of the original assessee had informed the respondent Income Tax Authorities that the original assessee (Pijush Kanti Deb) had expired on August 9, 2018. It is submitted that despite the aforesaid fact being brought to the notice of the respondent Income Tax Authorities, they continued with the impugned assessment proceedings and passed the order impugned.

6. Mr. Dudhoria, learned advocate appearing for the respondent Revenue Authorities submits that the

petitioner being the son of the original assessee never informed the Income Tax Department about the death of the original assessee and, as such, the proceedings and the order passed therein should not be interfered with.

7. Heard learned advocates appearing for the respective parties and considered the material on record.

8. It is not in dispute that at the time when the notice under Section 148 of the said Act of 1961 had been issued for initiating reassessment proceeding against the original assessee - Pijush Kanti Deb (since deceased), the original assessee was no more. In such view of the matter, the proceeding itself was initiated against a dead person.

9. It is also not in dispute that at the time when the notice under Section 148 of the said Act was issued, the Revenue Authorities had no information as regards the death of the said person and that, the Revenue Authorities got notice of the death of the original assessee only on December 28, 2023 upon the National Airport Authority intimating the same to the respondent Income Tax Authorities while responding to the query of the respondent Income Tax Authorities under Section 133(6) of the said Act of 1961.

10. In such view of the matter, while the Income Tax Authorities cannot be faulted for having issued the said notice under Section 148 of the said Act of 1961 in the name of Pijush Kanti Deb (since deceased), yet, at the same time the said authorities can also not be said to have acted, in accordance with law when they continued with the reassessment proceeding without taking the requisite corrective measures even upon it bring brought to their notice that the original assessee Pijush Kanti Deb had expired. On such ground alone, the order impugned dated February 29, 2024 passed under Section 147 read with Section 144 and Section 144B of the said Act of 1961 as well as the order dated June 29, 2024 passed under Section 272A(1)(d) of the said Act of 1961 and the order dated July 3, 2024 passed under Section 270 A of the said Act of 1961 together with the consequential notices of demand, all in respect of assessment year 2019-20 stand set aside.

11. However, this order shall not prevent the respondent Income Tax Authorities from issuing appropriate notices and initiating and/or conducting appropriate reassessment proceeding, in accordance with law upon observing the statutory formalities.

12. The petitioner shall remain obliged to furnish to the respondent Income Tax Authorities the names of the legal representatives of the deceased assessee, if any, upon the department writing to the petitioner and seeking information about the same.
13. It is clarified that if the petitioner does not respondent to the request of the respondent authorities for furnishing names of the legal representatives of the deceased assesse within a period of seven days from receipt of a written request seeking information about the legal representatives and heirs of the deceased assessee/original assessee, the Revenue Authorities shall be free to proceed against the petitioner alone treating the petitioner as the legal representative of the assessee and in such case, the proceeding shall not be liable to be challenged on the ground of non-implement of all heirs and/or legal representatives of the deceased assessee.
14. WPA 26463 of 2024 stands disposed of with the above observations.
15. There shall, however, be no order as to costs.
16. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)