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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Date of Decision : 22.05.2025*

+ **W.P.(C) 4745/2024 & CM APPL. 19459/2024**

**LAXMI DEVI (SINCE DECEASED) THROUGH LEGAL HEIR**

**NARENDRA MANN**

.....Petitioner

Through: Mr. Samarendra Kumar, Advocate.

versus

**ASSISTANT COMMISSIONER INCOME TAX**

**DEPARTMENT**

.....Respondent

Through: Mr. Vipul Agrawal, SSC with Ms. Sakshi Sehrawal, JSC, Mr. Akshat Singh, JSC and Mr. Gaoraang Ranjan, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**HON'BLE MR. JUSTICE TEJAS KARIA**

**VIBHU BAKHRU, J. (ORAL)**

1. The petitioner has filed the present petition, *inter alia*, impugning an assessment order dated 30.03.2022 [**the impugned assessment order**] and the consequential demand notice of the same date, issued pursuant to the impugned assessment order. The petitioner also impugns other notices issued by the Assessing Officer [AO]. The petitioner's challenge rests on the ground that the notices were issued in the name of his mother, who had expired prior to the issuance of the said notices and the impugned assessment order was also framed in the name of the deceased Assessee.



2. The petitioner's mother [Assessee] had filed the return of income for Assessment Year [AY] 2014-15 on 31.07.2014. It is stated that the Assessee expired on 08.03.2020. Thereafter, the petitioner applied to be recorded as the legal heir / representative. The petitioner's application to that effect was accepted by the department on 27.02.2021. The petitioner also uploaded the PAN details of the deceased Assessee, his own PAN, the death certificate of the Assessee, and a letter issued by the Indian Bank certifying the petitioner as the nominee of the deceased Assessee.

3. On 31.03.2021, a notice under Section 148 of the Act was issued in the name of the deceased Assessee, seeking to reopen the assessment for AY 2014-15. Subsequently, notices dated 25.01.2022 and 21.02.2022 under Section 142(1) of the Act were also issued in the name of the deceased Assessee. These proceedings culminated in the impugned assessment order dated 30.03.2022, which too was passed in the name of the deceased Assessee. It is not disputed that the notices cannot be issued to a deceased Assessee, nor can an assessment order be passed in their name.

4. However, the learned counsel appearing for the Revenue submits that since the notices were sent to the correct e-mail ID of the petitioner, the petitioner cannot claim ignorance of the assessment proceedings.

5. In our view, the said contention misses the point, that is, no proceedings can be instituted against a deceased Assessee in their name. In this case, there is no cavil that the petitioner's name had already been registered as the legal representative of the Assessee and therefore, the AO was not precluded from initiating proceedings against the petitioner in a



representative capacity. However, it is clear that no such proceedings were issued.

6. We are unable to accept that the defect in the present case can be overlooked, as the issuance of a notice under Section 148 of the Act is at the root of the jurisdiction of an AO to commence proceedings. Absent any such valid notice, the AO cannot assume jurisdiction for reopening the assessment. Since, in the present case, the notice issued under Section 148 of the Act was invalid as it was issued in the name of the deceased Assessee, the proceedings commenced pursuant thereto must fail.

7. The petition is accordingly allowed. The impugned assessment order and the impugned notices are set aside.

8. We, however, clarify that this shall not preclude the AO from initiating fresh proceedings, if otherwise permissible in law.

**VIBHU BAKHRU, J**

**TEJAS KARIA, J**

**MAY 22, 2025/sms**

*Click here to check corrigendum, if any*