

The Income-Tax Officer (Collection) Circle-1, Bangalore

Vs

Mrs. A. Sattlar

Civil Appeal No. 1278 of 1970

(K.S. Hegde, Y.V. Chandrachud JJ)

23.04.1973

JUDGMENT

HEGDE, J. -

1. This is an appeal by certificate. It arises from the decision of the High Court of Mysore in Writ Petition No. 1873 of 1969 on its file. Therein, the respondent prayed for a writ of Mandamus or a direction in the nature of Mandamus, to the Income-tax Officer, Circle-1, Bangalore, to issue to her a tax clearance certificate under section 230(1) of the Income-tax Act, 1961. The respondent was the widow of one Mr. J. Sattler. Mr. Sattler and another person by name Mr. K. S. Gandhi were partners of a firm by name "INKA CORPORATION". That firm went into liquidation and it was dissolved on February 17, 1953. It appears that the firm was in arrears of payment of income-tax in respect of assessment years 1948-49 to 1952-53. The Income-tax Officer, after giving notice to Mr. Gandhi, assessed the dissolved firm on March 31, 1956. No notice of the assessment proceedings appears to have been given to Mr. Sattler. Sometime after the assessment was made, Mr. Sattler died leaving behind him his widow, the respondent in this case, and a daughter. The widow and the daughter of Mr. Sattler inherited from him a half-share in a house property in Bangalore. It appears that Mr. Sattler's daughter had already settled down in New Zealand. After the death of Mr. Sattler, Mrs. Sattler wanted to go and settle down along with her daughter and for that purpose she applied for income-tax clearance certificate. The certificate asked for by Mrs. Sattler was refused by the appellant on the ground that there were income-tax arrears due from the late Mr. Sattler. The respondent moved the High Court of Mysore for the direction mentioned above. The High Court came to the conclusion that there was no valid assessment on Mr. Sattler, and, consequently, the respondent was not liable to pay the income-tax assessed. Aggrieved by that order, the Income-tax Officer has come up in appeal to this Court.

2. The only question that arises for decision in this case is whether there was a valid assessment on Mr. Sattler. As seen earlier the assessment in question was made long after the firm was dissolved. By the time the assessments came to be made the partnership in question was no more in existence. Hence, Mr. Gandhi cannot be considered as the agent of Mr. Sattler for the purpose of income-tax assessment. The notice served on Mr. Gandhi cannot be considered as notice served on Mr. Sattler. The assessment was also made on a non-existing firm and that too without any notice to the interested person. Hence, in our opinion, the High Court was right in its conclusion that there was no valid assessment on Mr. Sattler. Once we come to the conclusion that the assessment made on Mr. Sattler was not valid, it necessarily follows that Mrs. Sattler was not liable to discharge the alleged tax liability. In the result this appeal fails and the same is dismissed with costs.

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