

Life Insurance Corporation of India and Another

Vs

Gangadhar Vishwanath Ranade. (Decd., by Legal Representatives)

Civil Appeal No. 1979 of 1981

(J. S. Verma, N. D. Ojha JJ)

08.09.1989

JUDGMENT

VERMA J. –

1. This appeal by special leave is against the judgment dated January 7, 1981, in Writ Petition No. 1248 of 1977 of the Nagpur Bench of the Bombay High Court. The special leave has been confined only to the question of liability of the appellant, the Life Insurance Corporation, to pay interest for the period after date of maturity of insurance policy, in case of delay in payment. Accordingly, this is the only question arising for decision in this appeal.

The writ petition in the High Court was filed by Smt. Kamalabai G. Ranade, the wife of Gangadhar Vishwanath Ranade of Nagpur. The said G. V. Ranade took four policies on his own life from the Life Insurance Corporation of India during the period 1958 to 1960. These policies were paid-up and the particulars thereof including their paid-up values payable on the date of maturity are as under :

#Policy Number	Sum assured	Paid-up value	Date of maturity
19620636	10,000	3,415.70	14-09-1972
13932229	3,500	1,118.65	28-12-1973
13969144	5,000	892.20	9-11-1975
13972300	2,000	557.70	21-12-1975

In April, 1969, G. V. Ranade assigned absolute all these four insurance policies in favour of his wife, Smt. Kamalabai G. Ranade, and the assignment so made was duly registered by the as under :

"In registering this assignment, the Corporation makes no admission as to its validity.

#Nagpur. Sd/-Dated : 8-4-1969 P. Divisional Manager."##

It appears that there were some income-tax dues against the said G. V. Ranade for recovery of which the Income-tax Officer had commenced recovery proceedings. Prior to the date of maturity of these policies, the Income-tax Officer, on January 27, 1971, issued a notice under section 226(3) of the Income-tax Act, 1961, to the manager of the at Nagpur directing the l to pay to the Income-tax Officer forthwith any amount due from the to or held by the for or on account of the said G. V. Ranade to meet the amount due from G. V. Ranade a arrears of income-tax. This notice further mentioned the consequences envisaged by section 226(3) of the Income-tax Act, 1961. The Divisional Manager of the Life Insurance Corporation at Nagpur intimated the fact of the receipt of the notice under section 226(3) of the Income-tax Act, 1961, to the assignee of these policies, Smt. Kamalabai G. Ranade, suggesting that she take steps to get the notice vacated in order to safeguard

the interest in the policies. The further correspondence in this behalf between the Income-tax Officer, the Life Insurance Corporation and the assignee shows that the Income-tax Officer required the Life Insurance Corporation to deposit the amount of Rs. 3,415.70 payable against the first policy which was to mature on September 14, 1972, and the Life Insurance Corporation kept the assignee informed of this demand by the Income-tax Officer, adding in its letter dated July 27, 1972, to the assignee that the moneys due under the policies will be paid to her "only after your getting the notice served on us by the Income-tax Officer vacated". This was reiterated by the Life Insurance Corporation in its letter dated August 11, 1972, to the assignee.

The assignee sent a notice dated August 21, 1972, to the Life Insurance Corporation reiterating that the policies had been absolutely assigned to her as admitted by the Life Insurance Corporation as a result of which the amount payable against the same had to be paid only to her since the amount was not held by the Life Insurance Corporation for or on account of G. V. Ranade. The Life Insurance Corporation was also required by the notice to take the necessary steps for revocation of the Income-tax Officer's notice and to make the payment due in respect of all these policies to the assignee. The assignee sent a similar notice to the Income-tax Officer asserting her claim as the assignee to get the moneys payable under the policies. The Income-tax Officer, in a letter dated 28, 1972, addressed to the Life Insurance Corporation, had added that the alleged transfer of policies by G. V. Ranade to his wife are void with an intention to defraud the Revenue and the case falls within the mischief of section 281 of the Income-tax Act, 1961, and the Life Insurance Corporation was requested withhold any payment to Smt. Kamalabai G. Ranade till further communication from the Income-tax Officer.

On September 5, 1972, Smt. Kamalabai G. Ranade filed a writ petition (S.C.A. No. of 1972) in the High Court of Bombay impleading the Life Insurance Corporation and the Income-tax Officer as respondents therein claiming several reliefs which are mentioned at pages 33 to 35 of the paper-book. The reliefs included a direction to the Life Insurance Corporation for payment of Rs. 3,415.70 due on September 14, 1972, on maturity of the first policy to Smt. Kamalabai G. Ranade and also to make statement on oath as contemplated by section 226(3) of the Income-tax Act, 1961, that no part of the said amount is due to G. V. Ranade nor does the Life Insurance Corporation hold any part of the sum for or on account of G. V. Ranade. This writ petition was dismissed in limine by the High Court on September 14, 1972. The amount of Rs. 3,415.70 payable against the first policy which matured on September 14, 1972, was paid by the Life Insurance Corporation to the Income-tax Officer. Smt. Kamalabai G. Ranade filed an appeal (C.A. No. 373 of 1973) by special leave in this court against the dismissal of her writ petition by the Bombay High Court. That appeal was disposed of by this court on October 6, 1975, as under :

"On behalf of the Life Insurance Corporation of India, Mr. Ranade stated that he would file the necessary statement on oath in accordance with clause (vi) of sub-section (3) of section 226 of the Income-tax Act, 1961, and file it in court within two months from today stating that no sum of money is due to the assessee, insured person, before the Income-tax Officer. It will thereafter be open to the Income-tax Officer to take such other proceedings as he might consider necessary in order to realise the amounts due from the assessee. It is, however, stated that in respect of one policy, the Life Insurance Corporation has already paid the money to the Income-tax Officer. In respect of it no statement need be made and consequently no order can be made under section 226(3)(vi). The appeal disposed of accordingly. There will be no order as to costs."

In pursuance of the above order of this court, the Life Insurance Corporation filed on December 5, 1975, the requisite statement on oath under section 226(3)(vi) of the Income-tax Act, 1961, in respect of the remaining three policies.

It appears that the Income-tax Officer did not revoke the order of attachment in spite of the Life Insurance Corporation making the requisite statement on oath under section 226(3)(vi) of the Income-tax Act, 1961, on December 5, 1975. This led to another writ petition (S.C.A. No. 302 of 1977) filed in the Bombay High Court by Smt. Kamalabai G. Ranade praying for a direction to the Income-tax Officer to revoke all notices issue under section 226 (3) to the Life Insurance Corporation and to the Life Insurance Corporation to pay to her the amount due against the policies which had matured. On April 4, 1977, counsel for the Income-tax Officer produced before the High Court a copy of the order dated April 1, 1977, passed by the Income- tax Officer withdrawing the notice under section 226(3) of the Income- tax Act, 1961, and the writ petition was dismissed as withdrawn.

Smt. Kamalabai G. Ranade then promptly sent a notice to the Life Insurance Corporation demanding payment of the total amount due against these four policies together with interest at 15% since the delay in payment had been occasioned by the default of the Life Insurance Corporation. Admittedly, the Life Insurance Corporation has made the payment of these amounts to Smt. Kamalabai G. Ranade in these circumstances.

The Life Insurance Corporation has not disputed at any stage its liability to pay to Smt. Kamalabai G. Ranade the amounts due under these policies. However, it has disputed its liability to pay interest thereon for any period after the date of maturity on the ground that the delay was occasioned by the Income-tax Officer's notice under section 226(3). On the other hand, Smt. Kamalabai G. Ranade claimed that the Life Insurance Corporation had wrongfully refused to make the statement as contemplated under section 226(3)(vi) of the Income-tax Act, 1961, resulting in delay in payment of the moneys after the maturity of the policies. This dispute regarding the Life Insurance Corporation's liability to pay interest led to the filing of Writ Petition No. 1248 of 1977 decided on January 7, 1981, which gives rise to this appeal.

The impugned judgment of the Bombay Court in Writ Petition No. 1248 of 1977 holds that the last two policies having matured on November 9, 1975, and December 21, 1975, i.e., a few days before or after December 5, 1975, when the statement on oath under section 226(3) of the Income-tax Act, 1961, was made by the Life Insurance Corporation did not qualify for award of such interest which was payable in respect of the first two which had matured much earlier on September 14, 1972, and December 28, 1973. For the period commencing from the date of maturity of the policy ending with the performance of the Life Insurance Corporation's obligation to make the statement under section 226(3)(vi) of the Income-tax Act, 1961, on December 5, 1975, the Life Insurance Corporation has been held liable to pay interest on the basis of its failure to perform its statutory obligation. This view of the High court on which the award of interest is based is assailed on behalf of the appellant.

The surviving dispute in this appeal is now only about the Life Insurance Corporation's liability for payment of interest on the principal amount from the date of maturity of the first policies to December 31, 1975, at the rate of 15% per annum which is alleged to be excessive.

Broadly stated, the contention of the appellant is that the appellant was not liable to pay any interest for the period during which it was restrained from making the payment on account of the Income-tax Officer's notice under section 226(3) of the Income-tax Act, 1961, and the Income-tax Officer

also adding that the matter fell within the ambit of section 281 of the Act. On this basis, it was urged on behalf of the appellant that the award of interest on the first two policies from the date of their maturity till December 31, 1975 (statement on oath by the Life Insurance Corporation being made only on December 5, 1975), is contrary to law.

To support the main contention of the appellant, that it is not liable for payment of any interest for any period after maturity of the policies, Shri P. P. Rao, learned counsel for the appellant, advanced several arguments. His first argument is that the Income-tax Officer was a necessary part in the writ petition giving rise to this appeal and in his absence no effective adjudication of this dispute can be made. The second argument is that the High Court has misconstrued section 226(3) of the Income-tax Act, 1961, and thereby, wrongly fastened the liability for payment of interest up to December 31, 1975, on the appellant. The third argument is that the principle of res judicata or at least constructive res judicata, as a result of the earlier writ petitions bars the claim for payment of interest in this writ petition. The fourth argument is that the writ petition (S.C.A. No. 302 of 1977) being withdrawn unconditionally without liberty to file a fresh petition, this writ petition (W.P. No. 1248 of 1977) is not maintainable. The fifth argument is that the rate of 15% per annum at which interest has been awarded is excessive. The sixth and the last argument is that the appellant has been required to make double payment of Rs. 3415.70 due against the policy which matured on September 14, 1972, inasmuch as the Life Insurance Corporation had already deposited that amount earlier in September 1972, with the Income-tax Officer in pursuance of the Income-tax Officer's demand.

In reply, Shri A. K. Sanghi, learned counsel for the respondent, contended that the liability for payment of interest has been correctly fastened on the appellant because of its failure to discharge the statutory obligation of making the requisite statement on oath under section 226(3)(vi) of the Income-tax Act, 1961, till December 5, 1975. He argued that the Life Insurance Corporation having accepted and registered the absolute assignment made by the insured, G. V. Ranade, in favour of his wife, Smt. Kamalabai G. Ranade, it was the duty of the Life Insurance Corporation to promptly make the requisite statement on oath under section 226(3)(vi) of the Income-tax Act, 1961, which it made much later on December 5, 1975, in pursuance of the court's order to enable the Income-tax Officer to revoke the notice issued by him under section 226(3) of the Income-tax Act, 1961. Shri Sanghi stated that even though the special leave granted by this court is confined only to the question of interest and, therefore, does not extend to the question of alleged double payment of Rs. 3,415.70 by the Life Insurance Corporation, yet the respondent concedes that the amount of Rs. 3,415.70 deposited by the Life Insurance Corporation with the Income-tax Officer may be refunded by the Income-tax Officer to the Life Insurance Corporation together with interest, if any, payable on refund of that amount; and that the respondent does not lay any claim to that amount from the Income-tax Officer, having obtained that amount from the Life Insurance Corporation.

We shall first dispose of the point relating to double payment by the Life Insurance Corporation of the amount of Rs. 3,415.70 in view of the express concession made by Shri Sanghi, learned counsel for the respondent, that the respondent does not lay any claim to it and that the Life Insurance Corporation may obtain its refund from the Income-tax Officer. In view of this statement of learned counsel for the respondent, Shri Sanghi, it is sufficient to observe that it would be open to the Life Insurance Corporation to obtain refund of the amount of Rs. 3,415.70 deposited by it with the Income-tax Officer together with interest, if any, payable on the refund by the Income-tax Department, since it has been conceded that the respondent does not claim that amount from the Income-tax Officer. We shall now deal with the remaining arguments of Shri Rao, learned counsel for the appellant.

The first argument of learned counsel for the appellant is that the Income-tax Officer was a necessary party in the writ petition giving rise to this appeal. We are unable to accept this contention. The only claim made in writ Petition No. 1248 of 1977 decided on January 7, 1981 giving rise to this appeal is for payment of interest by the appellant, and no relief has been sought against the Income-tax Officer. This being so, for effective adjudication of the Life Insurance Corporation's liability towards the respondent, the presence of the Income-tax Officer is not necessary. The respondent's claim is only against the Life Insurance Corporation without any claim being made, in the alternative or otherwise, against the Income-tax Officer. The respondent's claim has, therefore, to succeed or fail only on the basis of the Life Insurance Corporation's liability vis-a-vis the respondent without involving the Income-tax Officer or anyone else in this process. Merely because the defence of the Life Insurance Corporation was based on an act of the Income-tax Officer, it was not incumbent on the respondent to implead the Income-tax Officer in this proceeding when neither was any relief claimed against the Income-tax Officer nor was any suggestion of the Income-tax Officer's liability for payment of interest made in the writ petition. This argument is, therefore, rejected.

The second argument relating to construction of section 226 (3) of the Income-tax Act, 1961, is, in fact, the main argument of Shri Rao and, therefore, we shall consider the same after disposing of the remaining arguments which are shorter points.

The third argument is based on the principle of res judicata and constructive res judicata on the basis of two earlier writ petitions filed by Smt. Kamalabai G. Ranade. The first writ petition was S.C.A. No. 861 of 1972 filed in the Bombay High Court on September 5, 1972, prior to the date of maturity of the first policy the claim against which was required to be paid by the Life Insurance Corporation to the assignee, Smt. Kamalabai G. Ranade. This was after issuance of the notice under section 226(3) of the Income-tax Act, 1961, by the Income-tax Officer to the Life Insurance Corporation. One of the reliefs claimed therein was a direction to the Life Insurance Corporation to make a statement on oath as required by section 226(3)(vi) of the Income-tax Act, 1961, that no part of the amount due against the policy maturing on September 14, 1972, was due to the insured, G. V. Ranade, nor did the Life Insurance Corporation hold any part of that sum for or on account of the alleged defaulter. No doubt, some other reliefs including revocation of the notice under section 226(3) of the Income-tax Act, 1961, were also claimed including payment of the amount together with the accretion thereof. This writ petition being dismissed, Smt. Kamalabai G. Ranade came to this court by special leave and Civil Appeal No. 373 of 1973 was disposed of by this court's order dated October 6, 1975, requiring the Life Insurance Corporation to make the necessary statement on oath in accordance with section 226(3)(vi) of the Income-tax Act, 1961, within two months. It is obvious that with this direction requiring the Life Insurance Corporation to make the requisite statement on oath under section 226 (3)(vi) of the Income-tax Act, 1961, no further question survived in that writ petition and the consequent civil appeal in this court since the further questions including payment of interest on the principal amount were to arise only at a subsequent stage. Asking for any other relief was obviously premature at that stage. It is apparently for this reason that this court did not at that stage go into the other questions relating to the further reliefs specified in that writ petition. That decision cannot, therefore, preclude agitation of the question of interest subsequently.

The next writ petition filed by Smt. Kamalabai G. Ranade was S.C.A. No. 302 of 1977, in the Bombay High Court. The prayer made therein was for a direction to the Life Insurance Corporation to pay the principal amount together with interest thereon. In this writ petition also, the Income-tax Officer was impleaded as a party. This writ petition had to be filed because, in spite of the Life

Insurance Corporation having made the requisite statement under section 226(3)(vi) of the Income-tax Act, 1961, on December 5, 1975, the Income-tax Officer had not withdrawn the notice under section 226(3) of the Income-tax Act, 1961, issued to the Life Insurance Corporation and, therefore, the Life Insurance Corporation was not making the payment to the respondent. On April, 4, 1977, that writ petition was dismissed as withdrawn as a result of the Income-tax Officer's counsel filing a copy of the order dated April 1, 1977, withdrawing the Income-tax Officer's notice under section 226(3) of the Income-tax Act, 1961, enabling the Life Insurance Corporation to make the payment due against the policies to the respondent. The operation of the notice under section 226(3) of the Income-tax act, 1961, by the Income-tax Officer being the only reason given by the Life Insurance Corporation to support its action of non payment to the respondent, it was unnecessary to pursue that writ petition when the Income-tax Officer had made the order withdrawing the notice under section 226(3) of the act. Admittedly, it was in consequence of the withdrawal of the Income-tax Officer's notice by order dated April 1, 1977, that payment was actually made by the Life Insurance Corporation to the respondent. It is, therefore, difficult to appreciate how the withdrawal of that writ petition can, in any manner, preclude the respondent from raising the question of the Life Insurance Corporation's liability to pay interest when the principal amount alone was paid later.

The Life Insurance Corporation having refused to pay interest on the principal amount in spite of the inordinate delay in payment, Writ Petition No. 1248 of 1977, had to be file giving rise to this appeal raising only the question of the Life Insurance Corporation's liability to pay interest on the principal amount due against the policies. The same is, therefore, clearly maintainable and the earlier writ petition cannot, in any manner, bar the adjudication of this point herein for the reasons already given. This contention of learned counsel for the appellant is also, therefore, rejected.

The fourth contention based on withdrawal of Writ Petition (S.C.A. No. 302 of 1977) being covered by the discussion relating to the third contention, the same is rejected.

The fifth argument relates to the rate of interest. Shri Rao contended that the award of interest at 15% per annum is excessive even if the Life Insurance Corporation is held liable for payment of interest. Reference was made by Shri Rao to section 244 of the Income-tax Act, 1961, providing for payment of interest on refund which prescribed the rate of 12% per annum from July 1, 1972, to October 1, 1984, the increase to 15% per annum being made therein only from October 1, 1984, by amendment of that section. It was urged only the period in question in the present case being prior to October 1, 1984, the rate of 15% per annum in excess of the statutory provision of 12% per annum in section 244 of the Income-tax act, 1961, is unjustified. Admittedly, the award of interest, in the present case, for payment by the is not governed by section 244 of the Income-tax Act, 1961. Apparently for this reason, learned counsel for the appellant relied on section 244 of the Income-tax Act, 1961, as of persuasive value. We are not impressed by this argument. The High Court has relied on the fact that interest at 15% per annum is reasonable, in the present case, particularly in view of the fact that the itself charges interest at that rate. It is sufficient for us to state that there is not material produced, in the present case, to suggest that award of interest at 15% per annum is excessive to permit interference with the rate in this appeal particularly when the High Court come to the conclusion that this is the reasonable rate. This argument also is, therefore, rejected.

The only point remaining for consideration now is the construction of section 226(3) of the Income-tax Act, 1961, the relevant portion of which, reads as under :

"226. Other modes of recovery. - (1) Notwithstanding the issue of a certificate to the Tax Recovery Officer under section 222, the Income- tax Officer may recover the tax

by any one or more of the modes provided in this section...

(3)(i) The Income-tax Officer may, at any time or from time to time, by notice in writing require any person from whom money is due or may become due to the assessee or any person who holds or may subsequently hold money for or on account of the assessee, to pay to the Income-tax Officer either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the assessee in respect of arrears or the whole of the money when it is equal to or less than that amount.

(ii) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the assessee jointly with any other person and for the purposes of this sub-section, the shares of the joint holders in such account shall be presumed, until the contrary is proved, to be equal.

(iii) A copy of the notice shall be forwarded to the assessee at his last address known to the Income-tax Officer, and in the case of a joint account to all the joint holders at their last addresses known to the Income-tax Officer.

(iv) Save as otherwise provided in this sub-section, every person to whom a notice is issued under this sub-section, shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary.

(v) Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.

(vi) Where a person to whom a notice under this sub-section is sent objects to it by a statement on oath that the sum demanded or any part thereof is not due to the assessee or that he does not hold any money for or on account of the assessee, then, nothing contained in this sub-section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, but if it is discovered that such statement was false in any material particular, such person shall be personally liable to the Income-tax Officer to the extent of his own liability to the assessee on the date of the notice or to the extent of the assessee's liability for any sum due under this Act, whichever is less.

(vii) The Income-tax Officer may, at any time or from time to time, amend or revoke any notice issued under this sub-section or extend the time for making any payment in pursuance of such notice.

(viii) The Income-tax Officer shall grant a receipt for any amount paid in compliance with a notice issued under this sub-section, and the person so paying shall be fully discharged from the liability to the assessee to the extent of the amount so paid.

(ix) Any person discharging any liability to the assessee after receipt of a notice under this sub-section shall be personally liable to the Income-tax Officer to the extent of his own liability to the assessee so discharged or to the extent of the assessee's liability for any sum due under this Act, whichever is less.

(x) If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the Income-tax Officer, he shall be deemed to be an assessee in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amounts as if it were an arrear of tax due from him, in the manner provided in sections 222 to 225 and the notice shall have the same effect as an attachment of a debt by the Tax Recovery, Officer in exercise of his powers under section 222...."

The argument of learned counsel for the appellant is that on receipt of the Income-tax Officer's notice under section 226(3) of the Income- tax Act, 1961, the Life Insurance Corporation was not left with the option to make the payment to assignee of the policies since the Life Insurance Corporation or its officer making the statement on oath under section 226(3)(vi) would thereby have been exposed to personal liability as the defaulter of the income-tax dues. It was argued that, in these circumstances, the Life Insurance Corporation could make the payment only after revocation of the notice by the Income-tax Officer's order dated April 1, 1977, and, therefore, the Life Insurance Corporation cannot be held liable for payment of interest for any period prior to revocation of the notice. The period for which the Life Insurance Corporation has been held liable to pay interest being prior to revocation of the notice by the Income-tax Officer, it was argued that the same was unjustified.

Having given our anxious consideration to the argument, we cannot persuade ourselves to accept the same. On a close scrutiny of the provision, we find that the benefit claimed by the Life Insurance Corporation is not available to it, in the facts of the present case.

Admittedly, assignment of the policies was made by the insured, G. V. Ranade, and the same was duly accepted and registered by the Life Insurance Corporation in April, 1969. It is, therefore, obvious that the Life Insurance Corporation was bound to act on that assignment in favour of Smt. Kamalabai G. Ranade unless the assignment was held to be invalid by a competent authority in a proper proceeding taken for this purpose. It is significant that the Life Insurance Corporation never disputed the validity of the assignment and was throughout prepared to act on it. It is undisputed that the assignment was not declared invalid by any competent authority. Mere issues of notice under section 226(3) of the Income-tax Act 1961, did not have the effect of invalidating the assignment nor did the casual mention of section 281 of the Income-tax act, 1961, by the Income-tax Officer in his letter dated August 28, 1972, result in this consequence. Any further step towards formation of the final opinion by the Income-tax Officer could be taken only after the Life Insurance Corporation had made the requisite statement on oath under section 226(3)(vi) of the Income-tax Act, 1961, on the basis of the registered assignment of policies. this act was performed by the Life Insurance Corporation only on December 5, 1975, which led to revocation of the notice under section 226(3) of the Act, by the Income-tax Officer. The question if of the liability of the Life Insurance Corporation in these circumstances.

Section 226 consists of several sub-sections of which sub-sections (1) and (3) alone are relevant for our purpose. Sub-section (1) enables the Income-tax Officer to recover the tax by any one or more of the further modes provided in this section.

Sub-section (3) deals with one such mode where the defaulter's money is held by another person. Clause (i) of sub-section (3) enables the Income-tax Officer by notice in writing to require any person from whom money is due or may become due to the assessee or any person who holds or may subsequently hold money for or on account of the assessee to pay to the Income-tax Officer that money or so much of it as is sufficient to pay the dues of the assessee in respect of the arrears of tax. It is in exercise of this power that the Income-tax Officer had issued the notice to the Life Insurance Corporation in the present case. Obviously, the Income-tax Officer has assumed that the money payable on maturity of these policies belonged to the insured/assessee/defaulters, G. V. Ranade, overlooking the duly registered assignment made much earlier in favour of the assessee's wife in April, 1969. The further clauses (ii) to (v) of sub-section (3) deal with ancillary matters and also provided that any claim in respect of property covered by the notice shall be void after the date of the notice as against the demand contained in all notice.

Clause (vi) is relevant for the present purpose and speaks of the obligation of a person to whom such a notice has been sent. Clause (vi) relieves the person receiving such a notice from the liability to pay any sum to the Income-tax Officer in obedience to the notice if he "objects to it by a statement on oath that sum demanded or any part thereof is not due to the assessee or that he does not hold any money for or on account of the assessee". This clause further provides that "if it is discovered that such statement was false in any material particular", such person shall be personally liable to the Income-tax Officer to the extent of the assessee's liability on the date of notice. Clause (vii) then provides, inter alia, for amendment or revocation of the notice issued under this sub-section by the Income-tax Officer. This stage of amendment or revocation of the notice under clause (vii) is reached only after the stage provided in clause (vi), in a case where the notice objects that he does not hold the money for or on behalf of the defaulter of tax dues.

It is, therefore, obvious that the question of revocation of the notice under clause (vii) of sub-section 226 of the Income-tax act, 1961, arose in the present case only after the Life Insurance Corporation made the requisite statement on oath under section 226(3)(vi) of the Act in view of its consistent stand throughout that the moneys due under the policies were held by it for and on behalf of the assignee and not the defaulter. Mere information of the assignment to the Income-tax Officer and keeping the assignee informed of the Income-tax Officer's action did not amount to discharge of the statutory obligation under section 226(3) (vi) of the Act, by the Life Insurance Corporation. The statute having expressly provided the mode of raising such an objection in the form of a statement on oath specified in clause (vi), performance of that obligation by the notice had to be made only in that manner. This statutory obligation was performed by the Life Insurance Corporation only on December 5, 1975, as stated earlier. The personal liability arising after making the requisite statement on oath as envisaged by clause (vi) is only "if it is discovered that such statement was false in any material particular" and not otherwise.

Learned counsel for the appellant argued that the requisite statement under section 226(3)(vi) of the Income-tax Act, 1961, could not be made by the since it involved the risk of exposing the Life Insurance Corporation or its officer making the statement on oath to personal liability for the income-tax dues of the assessee/defaulters, G. V. Ranade. In the first place, such a statement was, in fact, made without hesitation by the Life Insurance Corporation on December 5, 1975, after the assignee was compelled to obtain such a direction in a writ petition filed by her. That apart, the risk visualised on behalf of the Life Insurance Corporation, in the ultimate analysis, is entirely imaginary and not real. The risk of personal liability envisaged in clause (vi) arises only "if it is discovered that

such statement was false in any material particular". Thus, there is no risk of personal liability of the person making the statement on oath unless any material particular mentioned in the statement is false. The statement demanded or any part thereof is not due to the assessee or that he does not hold any money for or on account of the assessee". the Life Insurance Corporation itself has taken the stand throughout that the sum demanded by the notice issued under section 226 (3) of the Income-tax Act, 1961, by the Income-tax Officer did not belong to the assessee inasmuch as it was payable any to the assignee, Smt. Kamalabai G. Ranade by virtue of the assignment made, accepted and registered in April, 1969, much earlier to the date of the notice. This being so, the making of this statement on oath of the Life Insurance Corporation's own stand which, in fact, was so made on December 5, 1975, did not involve even remotely the possibility of any risk of personal liability.

On the contrary, the real risk of the Life Insurance Corporation being treated deemed defaulter/assessee under clause (x) of sub-section (3) of section 226 of the Act lay in its failure to pay to the Income-tax Officer after receipt of notice under section 226(3), the amounts of the matured policies within the time given by the Income-tax Officer or a reasonable time, without objecting to the demand by denying its liability to be assessed in the manner prescribed in clause (vi) thereof, instead of in doing so. Prudence also required the Life Insurance Corporation, in its own interest, to object to the demand according to clause (vi) instead of refusing or delaying the objection. The argument that such a statement was not made since it involved the likelihood of exposing the Life Insurance Corporation or any of its officers to personal liability has, therefore, no merit. This being the only reason given by the Life Insurance Corporation to justify the inordinate delay in making the requisite statement under section 226(3)(vi) of the Income-tax Act, 1961, it is obvious that this defence is untenable.

Sub-section (3) of section 226 of the Income-tax Act, 1961, clearly shows that on a notice thereunder being issued by the Income-tax Officer to the Life Insurance Corporation, in the present case, it was incumbent on the Life Insurance Corporation to make the requisite statement on oath under clause (vi) thereof raising an objection on the basis of the registered assignment. It was then for the Income-tax Officer to proceed further and form his final opinion and revoke the notice under clause (vii). It was not possible of the assignee of the policies to obtain revocation of the notice by the Income-tax Officer without the requisite statement on oath being made by the Life Insurance Corporation as envisaged in clause (vi) of sub-section (3) of section 226 of the Income-tax act. It is obvious that the inordinate delay in making the statement on oath by the Life Insurance Corporation under section 226(3)(vi) of the Income-tax act, 1961, was the result of misconstruction of the provision and misappreciation of its liability thereunder.

Obviously, the assignee of the policies who had become entitled to receive the amounts due thereunder on the dates of their maturity must be compensated by the Life Insurance Corporation for its failure to perform its statutory obligation under section 226(3)(vi) of the Income-tax, 1961, within a reasonable time. We have no doubt that this is the proper construction of section 226(3) of the Income-tax Act, 1961, and the consequential liability resulting from the failure of the notice to raise the objection in the prescribed manner under clause (vi) thereof within a reasonable time. Performance of this statutory obligation by the Life Insurance Corporation in the present case, being after inordinate delay, award of interest to the assignee of the policies to whom the payment thereunder had to be made even according to the stand of the Life Insurance Corporation is, therefore, clearly justified. This contention which is really the main contention urged on behalf of the appellants, therefore, fails and is rejected.

Consequently, the appeal is dismissed with costs. The costs are quantified at Rs. 2,000.

Appeal dismissed.

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