

**HIGH COURT OF TRIPURA**  
**A\_G\_A\_R\_T\_A\_L\_A\_**  
**WP(C) No.40 of 2024**

Sri Sujit Kumar Deb and another

..... Petitioner(s)

V E R S U S

Income Tax Officer and others

..... Respondent(s)

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For Petitioner(s) : Mr. T.D. Majumder, Sr. Advocate,  
Mr. Biplab Debnath, Advocate.

For Respondent(s) : Mr. Bidyut Majumder, DSGI,  
Dr. B.N Gogoi, Advocate.

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**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH**  
**HON'BLE MR. JUSTICE ARINDAM LODH**

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**27.03.2024**

Heard Mr. T.D. Majumder, learned senior counsel appearing for the petitioners and also heard Dr. B.N. Gogoi, learned Standing Counsel appearing for the respondent-Income Tax Department.

**[2]** Petitioner has approached this Court with the following prayers:

“(i) Petitioner has assailed the notice dated 30.03.2021 under Section 148 of the IT Act for the assessment year 2017-18 as being issued in favour of a dead person and being nullity in the eye of law. Petitioner has also assailed the reassessment order dated 22.03.2022 passed by respondent No.2 under Section 147 of the IT Act read with Section 144 and Section 144B thereof passed in an *ex parte* manner on the ground that any such reassessment order against a dead person would be invalid and nullity in the eye of law. Petitioner has also questioned the reopening of assessment against a dead person.

(ii) Petitioner contends that Smt. Kiran Bala Deb, the owner of Kiran Enterprise i.e. assessee died on 02.05.2020. She had filed her returns under Section 139 of the IT Act on 13.03.2018 for the assessment year 2017-18. However, reassessment proceedings have been initiated by the impugned notice dated 30.03.2021 by respondent No.2 against a dead person in teeth of the relevant provisions of the IT Act. It is submitted that the reassessment proceedings have been concluded in an *ex parte* manner by the impugned order dated 22.03.2022 against a dead person. As a result of the reassessment proceedings, penalty proceedings under Section 272(a)(1)(d) of the Act has been initiated by respondent No.1 against a dead assessee and petitioner, being treated as a legal representative of the deceased assessee, has been asked to pay tax dues of Rs.31,56,43,294/-. Therefore, petitioner has approached this Court.”

[3] Upon hearing learned senior counsel for the petitioner and after going through the relevant documents placed on record, learned counsel for the respondent-department was directed to file counter-affidavit by order dated 31st January, 2024. The respondents in their counter-affidavit at paragraph-10 have made the following statement:

“10. That as regard statement made in paragraph No.6, the answering deponent begs to state that in paragraph No.9, the petitioners have stated that the respondent No.1 had initiated penalty proceedings u/s 272(a)(1)(d) of the Act in the name of deceased assessee. In this mater, this humble respondent would like to explain that the Penalty u/s 272(1)(d) of the Act was initiated for repeated non-compliances to statutory notices on 14.03.2022 by respondent No.2. Having no intimation of death of asessee from any source, penalty proceedings were initiated u/s 271AAC and u/s 272A(1)(d) of the Act while passing of assessment order by respondent No.2.

The penalty cases were transferred back to the Jurisdictional Assessing Officer (JAO, in short) as per terms of Para5(2) of the Faceless Penalty Scheme, for completion of proceedings During the course of Penalty proceedings, notices sent in the name of Smt. Kiran Bala Deb dated 24.8.2022 & 5.8.2022 were returned by Speed Post with comment ‘Addressee deceased’. Letter was served upon the petitioner Sri Sujit Kumar Deb by respondent No.1 making him aware of the outstanding demand and pending penalty proceedings against his mother, late Kiran Bala Deb. Resultantly, the petitioner submitted a copy of death certificate issued by Dharmanagar Municipal Council vide No. D-2020:16-90056-000087 dated 21.5.2020. As the penalties were initiated after the demise of Smt. Kiran Bala Deb i.e. against a dead assessee, the penalty proceedings u/s 271AAC and u/s 272A(1)(d) of the Act were dropped by the respondent No.1 as per provisions of the Income-tax Act, 1961.

However, the statement of the petitioners that they were made aware for the first time about the assessment order/demand notice/penalty proceedings in case of their mother is not acceptable as all the notices and orders were readily available in e-filing website and were served on Registered e-mail IDs which belonged to person related to the petitioners and notifications of notices/orders from e-filing website were received in the registered mobile numbers which belonged to petitioner themselves. The answering respondent has elaborately discussed the matter in Para 3 supra and requests your kind consideration.

[4] The show-cause notice of penalty dated 25<sup>th</sup> July, 2022 under Section 272A(1)(d) of the Income Tax Act, 1961 relating to the assessment year 2017-2018 was issued against Kiran Bala Deb who is the deceased assessee. It is annexed at page 47 of the writ petition. The respondents have in their counter-affidavit also sought to allay the contentions as regards conduct of the re-assessment proceedings against the original assessee on the ground that no information of the death of the assessee dated 21<sup>st</sup> May, 2020

was furnished to the department by the legal heirs/petitioners herein. It is only during the course of penalty proceedings the department came to know of the death of the assessee as per the postal department's intimation in August, 2022.

[5] Learned counsel for the respondent-department therefore submits that the penalty proceedings under Section 271AAC and under Section 272A(1)(d) of the Act have been dropped by the respondent No.1 as per the provisions of the Income Tax Act, 1961. Learned counsel for the respondent submits that the department may be allowed liberty to work out the remedies in accordance with law.

[6] Learned senior counsel for the petitioner does not object to such proposition as they were aggrieved primarily by the penalty proceedings though initiated against the dead assessee but directed against them as legal heirs of the deceased assessee.

[7] Having regard to the aforesaid development that has been brought on record by the Income Tax Department, we are of the considered view that the grievance of the petitioner which arose due to initiation of penalty proceedings under Section 271AAC and under Section 272A(1)(d) of the Act have been redressed as the proceedings have been dropped by the department for the aforesaid reasons.

[8] As such, the instant writ petition is disposed of. We leave it to the department to work out their remedies as may be permissible in law.

**(ARINDAM LODH), J**

**(APARESH KUMAR SINGH), CJ**

*Dipesh*