

Income-Tax Officer (Collection) ... vs A. Sattler on 23 April, 1973

Equivalent citations: AIR1974SC1357A, [1973]92ITR576(SC), (1974)4SCC847, AIR 1974 SUPREME COURT 1357, 1974 4 SCC 847, 1974 TAX. L. R. 476, 1974 SCC (TAX) 335, 92 ITR 576

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Bench: Y.V. Chandrachud, K.S. Hegde

JUDGMENT

K.S. 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 Indian Income-tax Act, 1961. The respondent was the widow of one Mr. J. Sattlar, Mr. Sattlar 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 17-2-1953. 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 31-3-1958. No notice of the assessment proceedings appears to have been given to Mr. Sattlar. Sometime after the assessment was made, Mr. Sattlar died leaving behind him his widow, the respondent in this case, and a daughter. The widow and the daughter of Mr. Sattlar inherited from him a half share in a house property in Bangalore. It appears that Mr. Sattlar daughter had already settled down in New Zealand. After the death of Mr. Sattlar, Mrs. Sattlar 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. Sattlar was refused, by the appellant on the ground that there were income-tax arrears due from late Mr. Sattlar. 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. Sattlar and consequently the respondent was not liable to pay the income 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. Sattlar. As seen earlier the assessment in question was made long after the firm was dissolved. By the time the assessments carriage to be made the partnership in question was no more in existence. Hence Mr. Gandhi cannot be considered as the agent of Mr. Sattlar for the purpose of income-tax assessment, The notice served on Mr. Gandhi cannot be considered as notice served on, Mr. Sattlar. 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. Sattlar: Once we come to the conclusion that the assessment made on Mr. Saitiar was not valid, it necessarily follows that Mrs. Sattlar was not Babk to discharge the alleged tax liability. In the result this appeal fails and the same is dismissed with costs.