
Income Tax Officer (Collection) Circle I, Bangalore Vs A. Sattler

Civil Appeal No. 1278 of 1970

Court: Supreme Court of India

Date of Decision: April 23, 1973

Acts Referred:

Income Tax Act, 1961 " Section 230(1)

Citation: AIR 1974 SC 1357(1) : AIR 1974 SC 1357 : (1973) 92 ITR 576 : (1974) 4 SCC 847

Hon'ble Judges: Y. V. Chandrachud, J; K. S. Hegde, J

Bench: Division Bench

Final Decision: dismissed

Judgement

K.S. Hegde, J.

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 u/s 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. Sattlar was not valid, it necessarily follows that Mrs. Sattlar was not liable to

discharge the alleged tax liability. In the result this appeal fails and the same is dismissed with costs.