

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2026

CORAM :

THE HONOURABLE MR. SUSHRUT ARVIND DHARMADHIKARI,
CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

WA No.529 of 2026
and CMP No.5130 of 2026

Gowthaman S
Legal heir of Late.K. Selvarasu,
Kootampalli, Perur Post
Kattumannarkoil Taluka
Cuddalore - 608 707.

Appellant(s)

Vs

1. The Income Tax Officer, Ward 2
1st Floor Cuddalore Income Tax Office,
Soorappa Naicken Chavadi,
Cuddalore, Tamil Nadu – 607002.
2. The Assessment Unit
Income Tax Department Faceless
Assessment, New Delhi.

Respondent(s)

PRAYER: Appeal under Clause 15 of the Letters Patent to set aside the order dated 27.10.2025 in W.P.No.39793 of 2025 and allow the writ appeal.

For Appellant(s): Mr. Venkataraman Sundareswaran

For Respondent(s): Ms.C.P.Priya
Senior Standing Counsel
for Income Tax Department

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

Assailing the order dated 27.10.2025 passed by the learned Single Judge in W.P.No.39793 of 2025, the unsuccessful writ petitioner has filed this writ appeal.

2. The appellant, by way of the writ petition, challenged the order dated 31.03.2024 passed under Section 148A(d) of the Income Tax Act, 1961; the Assessment Order dated 17.02.2025; and the notice of demand dated 17.02.2025 issued under Section 156 of the Act, mainly on the ground that the same have been passed and issued against a person, who died on 4.1.2024.

3. The learned Single Judge, vide the order impugned dated 27.10.2025, held that the mandate of Section 159(1) of the Act

makes it clear that when a person dies, his legal representative is liable to pay any sum which the deceased would have been liable to pay if he had not died, in the like manner and to the same extent as the deceased and, therefore, it is not open for the appellant to plead that the assessment proceedings were initiated after the death of the deceased on 04.1.2024, without notice to the appellant or other legal representatives, as there are no records to indicate that after the assessee died on 4.1.2024, the appellant took steps to inform the department about the death of the deceased assessee. The learned Single Judge, though rejected the challenge to the jurisdiction of the respondents to issue the proceedings impugned in the writ petition, quashed the same and remitted the matter to the first respondent to pass fresh order on merits after affording an opportunity to the appellant to explain his case.

4.1. Learned counsel for the appellant submitted that the notice issued after the death of the assessee, followed by orders, is non-est in eye of law. He further submitted that unless the proceedings are initiated on the legal heir under Section 159(2) of

the Act within the period of limitation, all the consequential entire proceedings abates.

4.2. It is further submitted that the second respondent had dropped the penalty proceedings initiated under Section 270A of the Act vide order dated 2.8.2025 as the assessee had died, however, they have failed to exercise such diligence while issuing other proceedings and orders.

4.3. In support of the aforesaid submissions, learned counsel for the appellant placed heavy reliance on a decision of the Madhya Pradesh High Court in *Meet Lalwani v. Income-tax Officer and another*¹.

5. Learned counsel for the respondents reiterated the submissions made before the learned Single Judge and justified the order impugned passed by the learned Single Judge.

¹ (2025) 483 ITR 172 (MP)

6. In the case on hand, it is beyond any cavil that the impugned proceedings were drawn against a person who died on 4.1.2024.

7. Considering an identical issue, in *Meet Lalwani* (supra), a Division Bench of the Madhya Pradesh High Court, in which myself was a member, after referring to a series of judgments of various High Courts observed that the notice and all consequential proceedings issued to a dead person are null and void. The relevant portion of the said judgment reads as under:

"12. It has been observed by the Delhi High Court in the case of Savita Kapila v. Asst. CIT [(2020) 426 ITR 502 (Delhi)] as under (page 512 of 426 ITR):

"... In the absence of a statutory provision it is difficult to cast a duty upon the legal representatives to intimate the factum of death of an assessee to the Income-tax Department...

Consequently, the legal heirs are under no statutory obligation to intimate the death of the assessee to the Revenue."

13. *The Madras High Court in the case of Alamelu Veerappan v. ITO [(2018) 12 ITR-OL 95 (Mad); 2018 SCC OnLine Mad 13593.] has observed as under (page 100 of 12 ITR-OL):*

"... Nothing has been placed before this court by the Revenue to show that there is a statutory obligation on the part of the legal representatives of the deceased assessee to immediately intimate the death of the assessee to take steps to cancel the Permanent Account Number registration."

14. *Similar view has been taken by the High Court of Bombay in Sumit Balkrishna Gupta v. Asst. CIT [(2019) 414 ITR 292 (Bom)] wherein it has been observed as under (page 295 of 414 ITR):*

"7. The issue of a notice under section 148 of the Act is a foundation for reopening of assessment. The sine qua non for acquiring jurisdiction to reopen an assessment is that such notice should be issued in the name of the correct person. This requirement of issuing notice to a correct person and not to a dead person is not merely a procedural requirement but is a condition precedent to the impugned notice being valid in law. Thus, a notice which has been issued in the name of the dead person is also not protected either by provisions of section 292B or 292BB of the Act. This is so as the requirement of issuing a notice in the name

of correct person is the foundational requirement to acquire jurisdiction to reopen the assessment. This is evident from section 148 of the Act, which requires that before a proceeding can be taken up for reassessment, a notice must be served upon the assessee. The assessee on whom the notice must be sent must be a living person, i.e., legal heir of the deceased assessee, for the same to be responded. This in fact is the intent and purpose of the Act. Therefore, section 292B of the Act cannot be invoked to correct a foundational/substantial error as it is meant so as to meet the jurisdictional requirement."

15. In view of the above and that various High Courts have observed that the notice issued to a dead person for reopening of assessment of a dead person is null and void, this court holds that the notice and all consequential proceedings arising therefrom in the name of the deceased assessee are not sustainable."

8. We are in complete agreement with the submission made by learned counsel for the appellant on the basis of the aforesaid decision that the Department cannot issue notice and the consequential proceedings, impugned in the writ petition, to a dead person. That apart, it is also held therein that proceedings under

Section 159 of the Act can be invoked only if the proceedings have already been initiated when the assessee was alive and continuation of proceedings against the legal heirs was permitted. In the case on hand, admittedly, the proceedings have been initiated after the demise of the assessee.

In such view of the matter, the writ appeal is allowed and the order passed by the learned Single Judge is set aside. As a consequence, the writ petition is allowed and the order dated 31.03.2024 passed under Section 148A(d) of the Income Tax Act, 1961; the Assessment Order dated 17.02.2025; and the notice of demand dated 17.2.2025 issued under Section 156 of the Act are set aside. There shall be no order as to costs. Consequently, interim application stands closed.

(SUSHRUT ARVIND DHARMADHIKARI,CJ) (G.ARUL MURUGAN,J)
23.03.2026

Index : Yes
Neutral Citation : Yes
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