IN THE HIGH COURT OF KARNATAKA, BENGALURU

DATED THIS THE 2ND DAY OF JANUARY, 2018

BEFORE

THE HON'BLE Dr.JUSTICE VINEET KOTHARI

WRIT PETITION No.22020/2017 (T-IT)

Between:

Mrs. S. Savithri
W/o late Mr. T.V. Satyanarayana
Aged about 61 years
R/at: Sreenidhi, No.17
12th Cross, Ashoknagar
BSK 1st Stage, Bangalore-560050.

…Petitioner

(By Mr. Satyanand B.S. Advocate)

And:

The Income Tax Officer 5(2)(5)
Office of the Income Tax Officer
Ward – 5(2)(5), Room No.309
3rd Floor, BMTC Complex
Koramangala, Bangalore-560 095.

… Respondent

(Mr. E.I. Sanmathi, Advocate)

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This Writ Petition is filed under Articles 226 & 227 of the Constitution of India, praying to issue a Writ of Certiorari, or any other writ or direction declaring that the Notice bearing No.F.No.Cash Deposit/ACOPS6182M/ITO, W-5(2)(5)/17-18, dated 10.04.2017, (Annexure-A), issued by the Respondent as being illegal, unlawful, void ab initio, as such the same has lost its significance in the eyes of law & etc., This Writ Petition coming on for Preliminary Hearing in 'B' Group this day, the Court made the following:-

ORDER

Mr. Satyanand B.S., Advocate for Petitioner
Mr.E.I. Sanmathi, Advocate for Respondent

1. The petitioner, **Mrs. S. Savithri**, Wife of late **Mr. T.V. Satyanarayana,** a First Division Clerk in the City Civil Court, Bangalore, has filed this petition in this Court, challenging the impugned Notice issued by the Respondent - Income Tax Officer – 5(2)(5), Bangalore, under **Section 133 (6) of the Income Tax Act, 1961** ('Act' for short), calling upon the addressee, Mr.T.V. Sathyanarayana to explain the credit entry of **Rs.95.83 lakhs** in the Bank Account of the said Mr. T.V. Sathyanarayana.

2. The petitioner, Mrs. S. Savithri, the wife of Mr.T.V. Sathyanarayana furnished an initial reply to the said Notice of the Income Tax Officer, vide

Annexure D on **15/05/2017** that Mr. T.V. Sathyanarayana, her husband who was working as First Division Clerk in the City Civil Court, Bangalore, had unfortunately expired on **28/08/2016** even prior to the receipt of the said Notice dated **10/04/2017** and she was not aware of his Tax matters and details of Bank entries.

3. The present petition has been filed in this Court on **18/05/2017** and on **23/05/2017**, the learned counsel for the Respondent, Mr. E.I. Sanmathi submitted before the Court that the Respondent Department will not precipitate the matter further in pursuance of the impugned Notice under Section 133 (6) of the Act.

4. The learned counsel for the petitioner, Mr. Satyanand B.S. has submitted that firstly, the Notice was addressed to a deceased person, Mr. T.V. Sathyanarayana who had expired on **28/08/2016** and

in the absence of any separate Notice issued in the name of the petitioner wife, Smt. S. Savithri, she is not accountable or answerable to furnish the said information as required under Section 133 (6) of the Act.

5. The provisions of Section 133 (6) of the Act quoted below empowers that the Income Tax Authority to require any person including a banking company etc., to furnish any information or document which will be useful or relevant for any inquiry or proceedings under the Act.

Section 133(6):

*" **require any person**, including a banking company or any officer thereof, **to furnish information** in relation to such points or matters, or **to furnish statements of accounts** and affairs verified in the manner specified by the [Assessing] Officer, the [Deputy Commissioner (Appeals)] [, the [Joint Commissioner] or the Commissioner (Appeals)], giving information in*

relation to such points or matters as, in the opinion of the [Assessing] Officer, the [Deputy Commissioner (Appeals)] [,the [Joint Commissioner] or the Commissioner (Appeals)], will be useful for, or relevant to, any [enquiry or] proceedings under this Act:

*[**Provided** that the powers referred to in clause (6), may also be exercised by the [Principal Director General or] Director-General, the [Principal Chief Commissioner or] Chief Commissioner, the [Principal Director or] the Director [or the Principal Commissioner or Commissioner or the Joint Director or Deputy Director or Assistant Director]:]*

*[**Provided further** that the power in respect of an inquiry, in a case where no proceeding is pending, shall not be exercised by any income-tax authority below the rank of [Principal Director or] Director or [Principal Commissioner or] Commissioner [, other than the Joint Director or Deputy Director or Assistant Director,] without the prior approval of the [Principal Director or] Director or, as the case may be, the [Principal Commissioner or] Commissioner:]*

> *[**Provided also** that for the purposes of an agreement referred to in section 90 or section 90A, **an income-tax authority notified under sub-section (2) of section 131 may exercise all the powers conferred under this section, notwithstanding that no proceedings are pending before it or any other income-tax authority.]"***

6. The other contention raised before the Court is that the only Authority having a particular designation as contained in the second Proviso can call for such information. He has further submitted that since no inquiry or proceedings was pending before the said Authority, such an information could not be called for.

7. Having heard the learned counsels for the parties, this Court is satisfied that the present petition is misconceived and cannot be entertained. The Noticee even if deceased, the Legal Representatives or the persons who inherit the estate of the deceased persons will have to comply with the said Notice for furnishing

the requisite information. The very purpose of the provisions of Section 133 (6) of the Act is to elicit the requisite information and details from the person concerned.

8. From the reply filed by the petitioner, the wife of the deceased Government Servant, *prima facie*, it appears that a large sum of **Rs.95.83 lakh** was found to be in the credit of the Bank Account of a First Division Clerk of the City Civil Court, Bangalore, which was bound to raise a doubt or a query in the mind of the Income Tax Officer and therefore, when the Information was called from the Noticee under Section 133 (6) of the Act, the fact of death of the Noticee may not have been in the knowledge of the concerned Income Tax Officer. There is nothing on record to show that the fact of death was within the knowledge of the Respondent - Income Tax Officer and he still issued the Notice to a deceased person. The Legal Representatives including the petitioner, wife of late Mr.T.V. Sathyanarayana before

this Court cannot protest or deny the obligation to furnish such information including the Bank details and relevant vouchers to be obtained from the concerned Bank of the husband of the present petitioner. After all, the wife of a person cannot plead ignorance about a huge cash inflow in her husband's bank account. Cutting short of such inquiry by invoking the extra-ordinary jurisdiction of this Court is likely to defeat the very purpose for which the said salutary provision has been enacted in the Income Tax Act, 1961.

9. Therefore, this Court does not find any merit in the present petition filed by the petitioner. The same is liable to be dismissed and accordingly it is dismissed. No order as to costs.

Sd/-
JUDGE

BMV*