

W.P.No.1513 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on	27.04.2026
Pronounced on	13.07.2026

CORAM :

THE HONOURABLE MR. JUSTICE C.SARAVANAN

W.P.No.1513 of 2023

and

W.M.P.No.1662 of 2023

Appnell Holdings Limited,
Represented by its Special Power of Attorney Holder,
Parthasarathy Srinivasan

... Petitioner

Vs.

1.The Deputy Commissioner of Income-tax,
International Tax,
Circle 1(1), Chennai,
Room No.8713, BSNL Building,
4th Floor, Income Tax Office,
BSNL Tower 16, Greams Road,
Chennai, Tamil Nadu – 600 005.

2.Central Board of Direct Taxes,
Ministry of Finance,
North Block, New Delhi – 110 011.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for
issuance of a Writ of Certiorarified Mandamus,

(a) To call for the records pertaining to the Impugned Order dated



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28.07.2022 passed under Section 148A(d) of the Act for the Assessment Year 2015-2016 and the consequent Impugned Notice under Section 148 of the

Act issued on 28.07.2022 on the file of the Respondent No.1 and quash the same as arbitrary, ultra vires and unconstitutional and consequently forbear the Respondent from proceeding with re-assessment under Sections 147 and 148 of the Income Tax Act, 1961 in respect of the Assessment Year 2015-2016; and

(b) To call for the records pertaining to the CBDT Instruction No.01/2022 dated 11.05.2022 authorizing the Revenue Department (and accordingly Respondent No.1) to initiate reassessment proceedings for the Assessment Year 2015-2016 after 31.03.2022, and quash the same as arbitrary, ultra vires and unconstitutional, bad in law and ultra vires the First Proviso to Section 149(1)(b) of the Income Tax Act, 1961.

For Petitioner : Mr.R.Sivaraman
for Mr.Allwin Godwin

For Respondents : Mr.Avinash Krishnan Ravi
Junior Standing Counsel
for Mr.B.Ramanakumar
Senior Standing Counsel

ORDER

Heard the learned counsel for the Petitioner and the learned Junior Standing Counsel for the Respondents.



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2. In this Writ Petition, the Petitioner has challenged the Impugned Instruction No.01/2022 issued by the 2nd Respondent Central Board of Direct Taxes dated **11.05.2022** and the Impugned Order dated **28.07.2022** passed under Section 148A(d) of the Income Tax Act, 1961 as it stood in force with effect from **01.04.2021** and a Notice under Section 148 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) as it stood during the aforesaid period for the **Assessment Year 2015-2016**.

3. The challenge to these Impugned Instruction dated **11.05.2022**, Impugned Order passed under Section 148A(d) of the Act dated **28.07.2022** and Impugned Section 148 Notice dated **28.07.2022** are primarily on account of the apparent concession given by the Additional Solicitor General of India before the Hon’ble Supreme Court in **Union of India and others Vs. Rajeev Bansal**, (2024) 469 ITR 46 / 2024 SCC Online SC 2693.

4. For the sake of clarity, Paragraph No.19 from the said decision of the Hon’ble Supreme Court in **Rajeev Bansal case** referred to *supra* is extracted below:-

“19. Mr.N.Venkataraman, learned Additional Solicitor General of India, made the following submissions on behalf of the Revenue:



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- a. *Parliament enacted TOLA as a free-standing legislation to provide relief and relaxation to both the assesses and the Revenue during the time of COVID-19. TOLA seeks to relax actions and proceedings that could not be completed or complied with within the original time limits specified under the Income-tax Act;*
- b. *Section 149 of the new regime provides three crucial benefits to the assesses: (i) the four-year time limit for all situations has been reduced to three years; (ii) the first proviso to Section 149 ensures that re-assessment for previous assessment years cannot be undertaken beyond six years; and (iii) the monetary threshold of Rupees fifty lakhs will apply to the re assessment for previous assessment years;*
- c. *The relaxations provided under section 3(1) of TOLA apply "notwithstanding anything contained in the specified Act." Section 3(1), therefore, overrides the time limits for issuing a notice under Section 148 read with Section 149 of the Income-tax Act;*
- d. *TOLA does not extend the life of the old regime. It merely provides a relaxation for the completion or compliance of actions following the procedure laid down under the new regime;*
- e. *The Finance Act 2021 substituted the old regime for re-assessment with a new regime. The first proviso to Section 149 does not expressly bar the application of TOLA. Section 3 of TOLA applies to the entire Income-tax Act, including Sections 149 and 151 of the new regime. **Once the first proviso to Section 149(1)(b) is read with TOLA, then all the notices issued between 1 April 2021 and 30 June 2021 pertaining to assessment years 2013-2014, 2014-2015, 2015-2016, 2016-2017, and 2017-2018 will be within the period of limitation as explained in the tabulation below:***

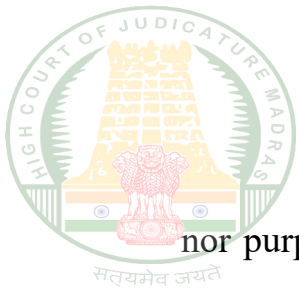
Assessment Year	Within Three Years	Expiry of Limitation read with TOLA for (2)	Within six Years	Expiry of Limitation read with TOLA for (4)
(1)	(2)	(3)	(4)	(5)



2013-2014	31.03.2017	TOLA not applicable	31.03.2020	30.06.2021
2014-2015	31.03.2018	TOLA not applicable	31.03.2021	30.06.2021
2015-2016	31.03.2019	TOLA not applicable	31.03.2022	TOLA not applicable
2016-2017	31.03.2020	30.06.2021	31.03.2023	TOLA not applicable
2017-2018	31.03.2021	30.06.2021	31.03.2024	TOLA not applicable

- f. The Revenue concedes that for the assessment year 2015-16, all notices issued on or after 1 April 2021 will have to be dropped as they will not fall for completion during the period prescribed under TOLA;*
- g. Section 2 of TOLA defines "specified Act" to mean and include the Income-tax Act. The new regime, which came into effect on 1 April 2021, is now part of the Income-tax Act. Therefore, TOLA continues to apply to the Income Tax Act even after 1 April 2021, and*
- h. Ashish Agarwal (supra) treated Section 148 notices issued by the Revenue between 1 April 2021 and 30 June 2021 as show-cause notices in terms of Section 148A(b). Thereafter, the Revenue issued notices under section 148 of the new regime between July and August 2022. Invalidation of the Section 148 notices issued under the new regime on the ground that they were issued beyond the time limit specified under the Income-tax Act read with TOLA will completely frustrate the judicial exercise undertaken by this Court in Ashish Agarwal (supra)."*

5. At the outset, a concession given by the learned Additional Solicitor General before the Hon'ble Supreme Court can neither be construed to be law declared under Article 141 of the Constitution of India

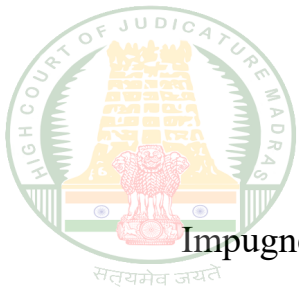


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nor purport of such concession can be construed to mean that the limitation for issuance of Notice under Section 148 of the Act had expired even where the amount involved is more than the specified limit both under the new and the old regime. A reading of the above table from Paragraph 19 of the decision of the Hon'ble Supreme Court in **Rajeev Bansal** case referred to *supra* also makes it clear that the Court was not informed that where the amount was above the specified limit, proceedings will abate even if Section 148 Notice was issued in time under the old regime.

6. That apart, it is to be remembered that the Hon'ble Supreme Court in **Union of India Vs. Ashish Agarwal**, (2023) 1 SCC 617 rendered its decision on **04.05.2022**, and held that a Notice issued under Section 148 under the old regime, will be treated as a Notice under Section 148A(b) under the new regime as in force with effect from **01.04.2021**. This has also been explained by the Hon'ble Supreme Court in **Rajeev Bansal** case referred to *supra*, to which I shall refer to.

7. To implement the above decision of the Hon'ble Supreme Court in **Ashish Agarwal** case referred to *supra*, the Impugned Instruction No.01/2022 dated 11.05.2022 was issued. Therefore, the challenge to the



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Impugned Instruction No.01/2022 dated 11.05.2022 implementing the decision of the Hon'ble Supreme Court in **Ashish Agarwal case** referred to *supra* cannot be countenanced and therefore has to be dismissed. To that extent, prayer (b) of the Petitioner is straight away liable to be dismissed.

8. The Hon'ble Supreme Court in **Rajeev Bansal case** referred to *supra* clarified the decision the Hon'ble Supreme Court in **Ashish Agarwal case** referred to *supra*. The Hon'ble Supreme Court in **Rajeev Bansal case** referred to *supra*, framed the following questions of law to be answered by it:-

- a. *Whether TOLA and notifications issued under it will also apply to reassessment notices issued after 1 April 2021; and*
- b. *Whether the reassessment notices issued under Section 148 of the new regime between July and September 2022 are valid.*

9. In **Rajeev Bansal case** referred to *supra*, the Hon'ble Supreme Court summarized its views in Paragraph No.114. It is reproduced below:-

“114. In view of the above discussion, we conclude that:

- a. *After 1 April 2021, the Income Tax Act has to be read along with the substituted provisions;*
- b. *TOLA will continue to apply to the Income Tax Act after 1 April 2021 if any action or proceeding specified under the substituted provisions of the Income Tax Act falls for completion between 20 March 2020 and 31 March 2021;*



- c. Section 3(1) of TOLA overrides Section 149 of the Income Tax Act only to the extent of relaxing the time limit for issuance of a reassessment notice under Section 148;
- d. TOLA will extend the time limit for the grant of sanction by the authority specified under Section 151. ***The test to determine whether TOLA will apply to Section 151 of the new regime is this: if the time limit of three years from the end of an assessment year falls between 20 March 2020 and 31 March 2021, then the specified authority under Section 151(i) has extended time till 30 June 2021 to grant approval;***
- e. In the case of Section 151 of the old regime, the test is: if the time limit of four years from the end of an assessment year falls between 20 March 2020 and 31 March 2021, then the specified authority under Section 151(2) has extended time till 31 March 2021 to grant approval;
- f. ***The directions in Ashish Agarwal (supra) will extend to all the ninety thousand reassessment notices issued under the old regime during the period 1 April 2021 and 30 June 2021;***
- g. ***The time during which the show cause notices were deemed to be stayed is from the date of issuance of the deemed notice between 1 April 2021 and 30 June 2021 till the supply of relevant information and material by the assessing officers to the assesses in terms of the directions issued by this Court in Ashish Agarwal (supra), and the period of two weeks allowed to the assesses to respond to the show cause notices; and***
- h. *The assessing officers were required to issue the reassessment notice under Section 148 of the new regime within the time limit surviving under the Income Tax Act read with TOLA. All notices issued beyond the surviving period are time barred and liable to be set aside."*

10. In Paragraph No.112, the Hon'ble Supreme Court in **Rajeev Bansal** case referred to *supra* also gave an illustration. It is reproduced as under:-



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“112.Let us take the instance of a notice issued on 1 May 2021 under the old regime for a relevant assessment year. Because of the legal fiction, the deemed show cause notices will also come into effect from 1 May 2021. After accounting for all the exclusions, the assessing officer will have sixty-one days [days between 1 May 2021 and 30 June 2021] to issue a notice under Section 148 of the new regime. This time starts ticking for the assessing officer after receiving the response of the assessee. In this instance, if the assessee submits the response on 18 June 2022, the assessing officer will have sixty-one days from 18 June 2022 to issue a reassessment notice under Section 148 of the new regime. Thus, in this illustration, the time limit for issuance of a notice under Section 148 of the new regime will end on 18 August 2022.”

11. As per the First *Proviso* to Section 149 of the Act, a Notice under Section 148 under the new regime could be issued, provided the limitation under the old regime had not expired.

12. If the amount of income that had escaped assessment was below **Rs.1,00,000/-**, it can be held that Section 148 Notice dated **30.06.2021** issued to the Petitioner under the old regime as it stood till **31.03.2021** was time barred and therefore barred under *Proviso* to Section 149 of the Act as in force. This interpretation would be in consonance with the concession given by the learned Additional Solicitor General of India before the Hon'ble Supreme Court in **Rajeev Bansal** case referred to *supra*.



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13. The dispute in the present case pertains to the **Assessment Year 2015-2016** in respect of certain transactions of the Petitioner during relevant **Previous Year 2014-2015**. The **four years** and **six years** limitation under the old regime had expired on **31.03.2020** and **31.03.2022** for the **Assessment Year 2015-2016**.

14. In the present case, a Section 148 Notice was issued to the Petitioner on **30.06.2021** under the old regime. It was issued prior to the expiry of limitation on **31.03.2022** under the old regime as the income chargeable to tax that is said to have escaped assessment for the **Assessment Year 2015-2016** was **Rs.27,06,46,000/-**.

15. This was of course made known to the Petitioner after Section 148A(b) Notice dated **27.05.2022** was issued to the Petitioner under the new regime after the Hon'ble Supreme Court in **Ashish Agarwal case** referred to *supra* rendered its decision on **04.05.2022**.

16. Since the income chargeable to tax that is said to have escaped assessment for the **Assessment Year 2015-2016** was **Rs.27,06,46,000/-**, it



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cannot therefore be held that the Impugned Section 148 Notice dated **28.07.2022** issued to the Petitioner can be said to be time barred.

17. As per the Scheme of Section 148A(b) of the Act, a Notice has to be issued, giving time not exceeding 30 days from the date of such Notice or such further time as may be extended on the basis of an application made in this behalf, for furnishing a Reply under Section 148A(c) of the Act.

18. Based on such Reply, an order has to be passed under Section 148A(d) of the Act, with the approval of the specified authority, within one month from the end of the month in which the Reply under Section 148A(c) of the Act is received.

19. Where no such Reply is furnished, the Order shall be passed within one month from the end of the month in which the time or the extended time allowed for furnishing the Reply, as provided under Clause (b) expires.

20. In Paragraph No.113, the Hon'ble Supreme Court in **Rajeev Bansal** case referred to *supra* observed as under:-

*“113. In **Ashish Agarwal (supra)**, this Court allowed the assesses to avail all the defences, including the defence of expiry of the*



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*time limit specified under Section 149(1). In the instant appeals, the reassessment notices pertain to the **assessment years 2013-2014, 2014-2015, 2015-2016, 2016-2017, and 2017-2018. To assume jurisdiction to issue notices under Section 148 with respect to the relevant assessment years, an assessing officer has to: (i) issue the notices within the period prescribed under Section 149(1) of the new regime read with TOLA; and (ii) obtain the previous approval of the authority specified under Section 151. A notice issued without complying with the preconditions is invalid as it affects the jurisdiction of the assessing officer. Therefore, the reassessment notices issued under Section 148 of the new regime, which are in pursuance of the deemed notices, ought to be issued within the time limit surviving under the Income Tax Act read with TOLA. A reassessment notice issued beyond the surviving time limit will be time barred.***

21. The Hon'ble Supreme Court in Paragraph No.114(g) in **Rajeev Bansal** case referred to *supra* has clearly clarified that the time during which the Show Cause Notices were deemed to be stayed from the date of issuance of the deemed Notice between **1st April 2021** and **30th June 2021**, till the supply of relevant information and material by the Assessing Officers to the assesseees in terms of the directions issued by this Court in **Ashish Agarwal** referred to *supra*, and the period of two weeks allowed to the assesseees to respond to the Show Cause Notices is to be excluded and thereafter the Assessing Officer(s) was/were required to issue the Reassessment Notice under Section 148 of the Act under the new regime within the time limit



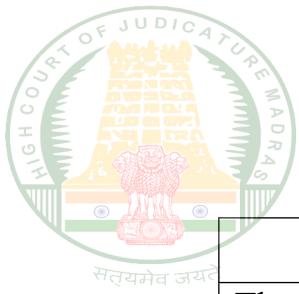
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surviving under the Act read with the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020.

22. Only if Section 148 Notice is issued beyond the surviving period of limitation, such Notice can be held to be time barred and can liable to be set aside. However, this is not the situation in the facts of the present case.

23. The time between **01.04.2021** and **27.05.2022** (being the date of Section 148A(b) Notice) and two weeks time given thereafter to Reply under Section 148A(b) read with the Third *Proviso* to Section 149 of the Act and the time for passing Order has to be excluded in terms of the decision of the Hon'ble Supreme Court in **Ashish Agarwal case** referred to *supra* and the decision of the Hon'ble Supreme Court in **Rajeev Bansal case** referred to *supra* are to be excluded.

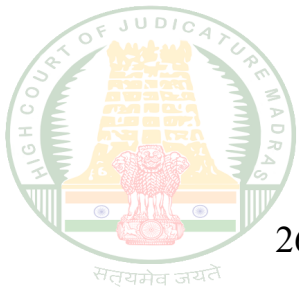
24. As per the Third *Proviso* to Section 149 of the Act, (later re-numbered as Fifth *Proviso vide* Finance Act No.8 of 2023 with effect from 01.04.2023), the said period stands excluded. For the sake of clarity, Section 148A(d) and Third *Proviso* to Section 149 of the Act is reproduced below:-



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Section 148A(d)	Third <i>Proviso</i> to Section 149
The Assessing Officer shall, before issuing any notice under Section 148,- (a)... (b)... (c) ... (d) decide, on the basis of material available on record including reply of the assessee, whether or not it is a fit case to issue a notice under section 148, by passing an order, with the prior approval of specified authority, within one month from the end of the month in which the reply referred to in clause (c) is received by him, or where no such reply is furnished, within one month from the end of the month in which time or extended time allowed to furnish a reply as per clause (b) expires:	(1)No notice under Section 148 shall be issued for the relevant assessment year,- (a)..... (b)..... Provided that..... Provided further that.... Provided also that for the purposes of computing the period of limitation as per this section, the time or extended time allowed to the assessee, as per show-cause notice issued under clause (b) of section 148A or the period during which the proceeding under section 148A is stayed by an order or injunction of any court, shall be excluded:* Note - * Third Proviso

25. In the facts of the present case, a Notice dated **27.05.2022** under **Section 148A(b)** of the Act was issued to the Petitioner in terms of the decision of the Hon'ble Supreme Court in **Ashish Agarwal case** referred to *supra*. The Petitioner should have replied to it within **two weeks thereof i.e.,** on or before **10.06.2022**.



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26. An Order under Section 148A(d) of the Act had to be passed within one month from the end of the month in which the Reply referred to in Clause (c) is received by the Assessing Officer or Assessing Authority. Since no such Reply was furnished by the Petitioner to the said Notice dated **27.05.2022**, an Order had to be passed under Section 148A(d) of the Act, within one month from the end of the month in which time **or extended time allowed to furnish a Reply expired**. In this case, such time would have expired on **31.07.2022**.

27. The said Section 148 Notice dated 28.07.2022 was to be issued with the prior approval of the specified authority under Section 151 of the Act.

28. Since Order under Section 148A(d) of the Act had to be passed by **31.07.2022**, the Impugned Order which came to be passed on **28.07.2022** under Section 148A(d) of the Act in the absence of a Reply by the Petitioner and the Impugned Section 148 Notice dated **28.07.2022** are to be held to be in time.

29. Therefore, the so called concession will not apply to the facts of the present case, and the income chargeable to tax that is said to have escaped



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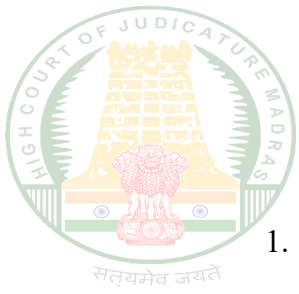
assessment for the **Assessment Year 2015-2016** was Rs.27,06,46,000/- as

per **Section 148A(b) Notice dated 27.05.2022** as mentioned above.

30. That apart, under the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Ordinance, 2020 and the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 and the Notifications issued therein and in view of the periodical extension of time given by the Hon'ble Supreme Court independently in **In Re: Cognizance for Extension of Limitation in Miscellaneous Application Nos.21 and 29 of 2022 in Miscellaneous Application No.665 of 2021** dated **10.01.2022**, it cannot be said the proceedings are barred.

31. Similar issues have come before this Court on several occasions and several orders have been passed wherein it has been clearly clarified that the so called concession recorded in Paragraph No.19 from the decision of the Hon'ble Supreme Court in **Rajeev Bansal case** referred to *supra* was indeed not concessional.

32. That apart, the issue has been answered by this Court in all these cases:-



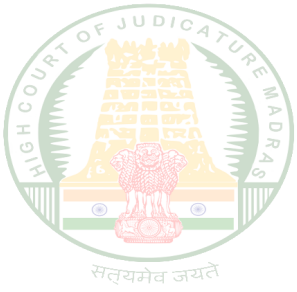
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1. **D.Tamilselvi Vs. The Income Tax Officer, Virudhunagar in W.P.(MD)No.30938 of 2024 etc., batch *vide* order dated 15.09.2025.**
2. **Mrs.Thulasidass Prabavathi Vs. Income Tax Officer, Chennai in W.P.No.19010 of 2022 *vide* order dated 24.01.2025.**
3. **Kandasamy Veluswamy Vs. The Assistant Commissioner of Income Tax, Periyar Nagar, Erode in W.P.No.26533 of 2022 *vide* order dated 28.11.2025.**
4. **Ravi Constructions Vs. The Assistant Commissioner of Income Tax, Race Course Road, Coimbatore in W.P.No.11606 of 2023 *vide* order dated 23.02.2026.**
5. **M/s.Exemplarr Worldwide Limited, Represented by its Managing Director Vs. The Central Board of Direct Taxes, New Delhi and another in W.P.No.15322 of 2023 *vide* order dated 20.04.2026.**
6. **S.Palani Vs. The Additional/Joint/Deputy/Assistant Commissioner of Income Tax/Income Tax Officer, Delhi and another in W.P.No.15325 of 2023 *vide* order dated 20.04.2026.**

33. The ratio of these cases will apply to the facts of the present case. The Impugned Order is dated **28.07.2022**. It was passed under Section 148A(d) of the Act as it stood in force with effect from **01.04.2021**. Similarly, the Notice dated **28.07.2022** was issued under Section 148 of the Act as it stood during the aforesaid period for the **Assessment Year 2015-2016**.



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34. Therefore, this Writ Petition is liable to be dismissed. The

Respondents are therefore directed to complete the assessment. Needless to state, the Petitioner shall be entitled to participate in the proceedings in accordance with law in the aforesaid assessment proceedings.

35. The Respondents shall pass appropriate orders on merits as expeditiously as possible once the Petitioner files the Reply. Since the Web Portal would have been closed, the Petitioner is directed to keep the Reply ready and file it before the 1st Respondent within a period of 30 days from the date of receipt of a copy of this order. Thereafter, the Respondents or any other jurisdictional Assessing Officer or Assessing Authority, may pass appropriate orders after hearing the Petitioner.

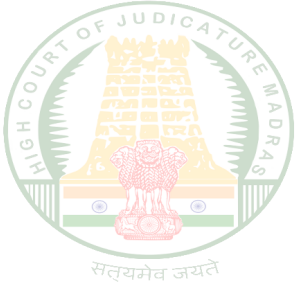
36. This Writ Petition is dismissed with the above liberty. No costs. Connected Writ Miscellaneous Petition is closed.

13.07.2026

Neutral Citation: Yes / No

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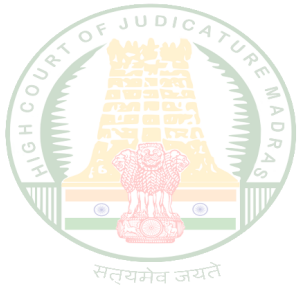


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To:

- 1.The Deputy Commissioner of Income-tax,
International Tax,
Circle 1(1), Chennai,
Room No.8713, BSNL Building,
4th Floor, Income Tax Office,
BSNL Tower 16, Greams Road,
Chennai, Tamil Nadu – 600 005.
- 2.Central Board of Direct Taxes,
Ministry of Finance,
North Block, New Delhi – 110 011.



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C.SARAVANAN, J.

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Pre-delivery Order in W.P.No.1513 of 2023

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