

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.02.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.4574, 4575, 4578, 4581, 4579, 4580, 4582 & 4583 of 2020
and WMP Nos.5420, 5424, 5427, 5433, 5340, 5432, 5435 & 5436 of
2020

- 1 ARRS SILKS
7,8 & 9 CAR STREET
SALEM 6336 001
REP. BY ITS PARTNER
S. RAVICHANDRAN
... PETITIONER in WP No.4574 of 2020
- 1 EKTHA SANJEY AHUJA
1F RAJAJI ROAD
SALEM 636 007
... PETITIONER in WP No.4575 of 2020
- 1 REVATHI MODERN RICE MILL
34-A/2 ATTUR MAIN ROAD
AYOTHIAPATINAM
SALEM 636 103 REP. BY ITS PARTNER
P. GANAPATHY
... PETITIONER in WP No.4578 of 2020
- 1 KAILASH
S/O. RAMESH , 1F , RAJAJI SALAI
SALEM -636 007
... PETITIONER in WP No.4579 of 2020
- 1 SANGEETHA
W/O. RAMESHLAL
No.1F , RAJAJI SALAI
SALEM -636 007
... PETITIONER in WP No.4580 of 2020
- 1 N.A.SURESH
S/O. B. ANANTHARAMAN
39 VASAGASALAI STREET
SHEVAPET SALEM 636 002 ... PETITIONER in WP No.4581 of 2020
- 1 RAMESHLAL
S/O. FATICHAND
NO.1F RAJAJISALAI
SALEM -636 007
... PETITIONER in WP No.4582 of 2020

1 SREE BALAJI BULLIONS
22/43 VASAGASALAI STREET SHEVAPET
SALEM -636 002
REPRESENTED BY ITS MANAGING PARTNER
B.MOHAN ... PETITIONER in WP No.4583 of 2020

Vs.

1 THE DEPUTY COMMISSIONER OF
INCOME TAX , CIRCLE (1), INCOME TAX OFFICE
NO. 3 , GANDHI ROAD , SALEM 636 007
...Respondents in W.P.No.4574, 4575,
4581, 4579, 4580, 4582, 4583/2020.

1 ASSISTANT COMMISSIONER OF INCOME TAX
CIRCLE 1 HOSUR 737/1 , FIRST FLOOR
R.K. TOWERS MARUTHI NAGAR
HOSUR 635 109 ...Respondent in W.P.No.4578 of 2020

1 INCOME TAX OFFICER
WARD 1(4) INCOME TAX OFFICE
NO.3 GANDHI ROAD SALEM - 636 007
... RESPONDENT in WP No.4579 of 2020

WP No.4574 of 2020

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records relating to ITBA / AST / S / 143(3) / 2019-20 / 1023407692 (1) dated 30.12.2019 on the file of the Respondent relating to Assessment year 2017-18 and quash the same.

WP No.4575 of 2020

To issue a Certiorari or any other Writ or order or direction in the nature of a Writ Calling for the records relating to ITBA / AST / S / 143(3) / 2019-20 / 1022614390 (1) dated 18.12.2019 on the file of the Respondent relating to Assessment year 2017-18 and quash the same.

WP No.4578 of 2020

Calling for the records relating to ITBA / AST / S / 143(3) / 2019-20 / 1023458297(1) dated 30.12.2019 the file of the Respondent relating to Assessment year 2017-18 and quash the same.

WP No.4579 of 2020
Calling for the records relating to ITBA/AST/S/143(3) /2019-20/1023436643 (1) dated 30.12.2019 on the file of the Respondent relating to Assessment Year 2017-18 and quash the same.

WP No.4580 of 2020
calling for the records relating to ITBA/AST/S/143(3) /2019-20/1022613098 (1) dated 18.12.2019 on the file of the Respondent relating to Assessment Year 2017-18 and quash the same.

WP No.4581 of 2020
To issue a Writ of Certiorari or any other Writ or order or direction in the nature of a Writ calling for the records relating to ITBA / AST / S / 143(3) /2019-20 / 1021877874(1) dated 07.12.2019 on the file of the Respondent relating to Assessment year 2017-18 and quash the same.

WP No.4582 of 2020
Calling for the records relating to ITBA/AST/S/143(3) /2019-2020/1023453060(1) dated 30.12.2019 on the file of the Respondent relating to Assessment Year 2017-18 and quash the same.

WP No.4583 of 2020
To issue a Writ of Certiorari or any other Writ or order or direction in the nature of a Writ, calling for the records relating to ITBA/AST/S/143(3) /2019-20/1023350591 (1) dated 28.12.2019 on the file of the Respondent relating to Assessment Year 2017-18 and quash the same.

For Petitioner in all WPs.: Mr.B.Kumar, Senior Counsel
for Mr.S.Ramachandran

For Respondent in all WPs : Mr.A.P.Srinivas,
Senior Standing Counsel

C O M M O N O R D E R

Mr.A.P.Srinivas, learned Senior Standing Counsel accepts notice for the respondent.

2. By consent of both learned Senior Counsel appearing for the learned counsel for the petitioners as well as the learned Senior Standing Counsel for the respondent, these Writ Petitions are disposed finally even at the stage of admission.

3. The petitioners have suffered an order of assessment for Assessment Year (AY) 2017-18, passed in terms of the Income tax Act, 1961 (in short 'Act'). The sole addition relates to certain deposits made in cash during the period of demonetization. According to the petitioners, only one portion of the cash deposit was in demonetised currency and this amount has already been offered to tax by the petitioner. The remaining deposits would not come within the ambit of unexplained money in terms of Section 115 BBE of the Act.

4. As against the orders of assessment, statutory appeals have been filed by the petitioners, which are pending before the Commissioner of Income Tax (Appeals), Salem. Inter alia, the petitioners have also sought a stay of the demand. The details of the appeals and the stay applications are as follows:

S.No.	Case No.	Appeal filed on	Stay Application filed on	Status
1.	W.P.No.4574 of 2020	23.01.2020	06.02.2020	Pending
2.	W.P.No.4578 of 2020	29.01.2020	17.02.2020	Pending
3.	W.P.No.4581 of 2020	30.12.2019	07.02.2020	Pending
4.	W.P.No.4583 of 2020	25.01.2020	07.02.2020	Pending
5.	W.P.Nos.4575, 4579, 4580 and 4582 of 2020	20.01.2020	06.01.2020	Stay Applications allowed

5. Since the petitioners have rightly approached the authorities for interim protection, it would suffice that the stay applications be considered and disposed in accordance with law.

6. In W.P.Nos.4575, 4579, 4580 and 4582 of 2020, the stay applications have been allowed and hence, nothing survives in these writ petitions. Recording the aforesaid, these writ petitions are closed

7. In W.P.Nos.4574, 4578, 4581 and 4583 of 2020, the authorities are directed to consider and dispose the stay applications after considering the tri-fold aspects of prima facie case, financial stringency and balance of convenience and pass orders after hearing the petitioner in

accordance with law, within six (6) weeks from today. The aforesaid Writ Petitions are disposed in the aforesaid terms.

8. No costs. Connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

sl

To

1.The Deputy Commissioner of Income Tax
Circle (1), Income tax office,
No.3, Gandhi Road,
Salem - 636 007.

2.The Assistant Commissioner of Income Tax
Circle i, Hosur
737/1, First Floor, R.K. Towers
Maruthi Nagar, Hosur 635 109.

+2 Ccs to Mr.A.P.Srinivas, Advocate sr 16317, 16316.

+8 Ccs to Mr.S.Ramachandran, Advocate sr 16454 to 16461.

W.P. Nos.4574, 4575, 4578, 4581,
4579, 4580, 4582 & 4583 of 2020
and WMP Nos.5420, 5424, 5427, 5433,
5340, 5432, 5435 & 5436 of 2020

JP (CO)

SP(06/03/2020)

WEB COPY