BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 22.03.2022
CORAM

THE HONOURABLE MR. JUSTICE C.SARAVANAN

Writ Petition (MD) Nos.14486 to 14488 of 2019
and
W.M.P.(MD) Nos.10920 to 10922 of 2019

City Union Bank Limited,
No.148-149, T.S.R. Big Street,
Kumbakonam - 612 001,
Rep. by its Managing Director and
Chief Executive Officer,
Dr.N.Kamakodi .. Petitioner in all the W.Ps.

Versus

1.The Assistant Commissioner of Income Tax,
Circle 1, Kumbakonam Income Tax Office,
1st Floor, No.31, Krishnaswamy Road,
Gandhi Nagar, Kumbakonam,
Tamil Nadu - 612 001.

2.Chief Commissioner of Income Tax,
New No.44, Old No.4,
Williams Road, Cantonment,
Tiruchirappalli - 620 001. .. Respondents in all the W.Ps.

Prayer in W.P.(MD)No.14486 of 2019:- Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the impugned order in PAN:AAA CC 1287E, dated 22.02.2019, passed by the first respondent and the impugned notice No.ITBA/AST/S/148/2018-19/1012588486(1), dated 26.09.2018, issued by the first respondent under Section 148 read with Section 147 of the Income Tax Act for the Assessment Year 2012-13 and quash both the order and notice.

Prayer in W.P.(MD)No.14487 of 2019:- Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the impugned order in PAN:AAA CC 1287E, dated 22.02.2019, passed by the first respondent and the impugned notice No.ITBA/AST/S/148/2018-19/1012588488(1), dated 26.09.2018, issued by the first respondent under Section 148 read with Section 147 of the Income Tax Act for the Assessment Year 2013-14 and quash both the order and notice.

Prayer in W.P.(MD)No.14488 of 2019:- Petition filed under Article 226 of the Constitution of India praying to issue a Writ of

Certiorari, to call for the records relating to the impugned order in PAN:AAA CC 1287E, dated 22.02.2019, passed by the first respondent and the impugned notice No.ITBA/AST/S/148/2018-19/1010761059(1), dated 02.08.2018, issued by the first respondent under Section 148 read with Section 147 of the Income Tax Act for the Assessment Year 2014-15 and quash both the order and notice.

For Petitioner (in all the W.Ps.)	:	Mr.T.Suryanarayana Senior Counsel for M/s.King and Partridge
For Respondents (in all the W.Ps.)	:	Mr.N.Dilipkumar Senior Standing Counsel

COMMON ORDER

The petitioner has challenged the impugned notices, bearing Reference Nos.ITBA / AST / S / 148 / 2018-19 / 1012588486(1), ITBA/AST/S/148/2018-19/1012588488(1), dated 26.09.2018, and ITBA/AST/S/148/2018-19/1010761059(1), dated 02.08.2018, issued under Section 148 of the Income Tax Act, 1961, seeking to reopen the assessment completed under Section 143 (3) of the Income Tax Act, 1961 for the Assessment Years 2012-2013, 2013-2014 and 2014-2015.

2.The reasons for reopening the assessment in all the three notices, are as under:-

> "*The assessee has identified the rural branches based on the 2001 census data. The present population census of 2011 is available on 31.03.2011. For the previous year commencing on 01.04.2011, relevant to the assessment year 2012-13, the rural branches should be identified as per population census, 2011 only. The assessee has filed inaccurate particulars for claiming excess deduction for the assessment year 2012-13.*"

3.The respondents have however rejected the objections of the petitioner from reopening of the assessment based on the reasons given in the impugned communications, which are also challenged in these Writ Petitions.

4.The learned Senior Standing Counsel for the respondents has brought to the attention of this Court to a clarification of the Registrar General and Census Commissioner of India, NDCC-II Bldg, Jai Singh Road, New Delhi in PAN.No.AAACT3373J/CIR-2/TNJ/2021-22, vide a communication dated 11.02.2022. The learned Senior Standing Counsel for the respondents has specifically drawn the attention of this Court to Serial Nos.5, 6 and 7 of the Query and the answers given by the office of the Registrar General and Census Commissioner of India, which read as under:-

> "*Q.5 - From the provisional Census date, whether the*

population of a particular place could be found out, so that a particular place could be decided as to whether it is a rural place or urban?

Ans: No. Provisional population is released only at district level.

Q.6 - When was the final data relating to Census 2011 was published?

Ans: 30.04.2013.

Q.7 - Kindly furnish the date from which the final Census 2011 data was available in public domain.

Ans: 30.04.2013."

5.The information given by the office of the Registrar General and Census Commissioner of India seems to indicate that the impugned order and the notices would be clearly barred, as the final data relating to Census 2011 was published only on 30.04.2013 and it was not available on the first day of the previous year *i.e.,* before 01.04.2011 (01.04.2011 is the first day of the previous year).

6.Considering the above submissions, I am inclined to allow these Writ Petitions holding that there is no case made out for suppression of income to warrant issue of notice under Section 148 of the Income Tax Act.

7.These Writ Petitions stand allowed in terms of above observation. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2022

Sub Assistant Registrar(CS)

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To

1.The Assistant Commissioner of Income Tax,
Circle 1, Kumbakonam Income Tax Office,
1st Floor, No.31, Krishnaswamy Road,
Gandhi Nagar, Kumbakonam,
Tamil Nadu – 612 001.

2.The Chief Commissioner of Income Tax,
New No.44, Old No.4,
Williams Road, Cantonment,
Tiruchirappalli – 620 001.

+3 CC to M/s.KING AND PARTRIDGE, Advocate (SR-13772,13774,13773,[F] dated 23/03/2022)

+3 CC to M/s.N.DILIPKUMAR, Advocate (SR-14701,14700,14696[F] dated 25/03/2022)

Writ Petition (MD) Nos.14486 to 14488 of 2019
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RK(01/04/2022) 4P 9C