IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.15671, 15674 & 15677 of 2023
and
W.M.P.Nos.15163, 15164, 15166, 15167, 15170 & 15171 of 2023

Sri Shanmugasundaram Ravichandran .. Petitioner
(in W.P.No.15671 of 2023)

Sri. Shanmugasundaram Rangasamy .. Petitioner
(in W.P.No.15674 of 2023)

M/s.New Arcot Plywoods & Glasses,
Rep. By its Partner,
Sri Shanmugasundaram Ravichandran,
No.30, Gopal Naidu Street,
Walajabath, Kanchipuram Taluk,
Kanchipuram Dist – 631 605 .. Petitioner
(in W.P.No.15677 of 2023)

Vs.

The Assistant Commissioner of Income Tax,
Central Circle 2 (3), Chennai. .. Respondent
(in all cases)

Prayer in W.P.No.15671 of 2023: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the respondent in his proceeding in DIN & Notice No. ITBA/AST/F/148A/2023-24/1052277287(1) (PAN AURPR6258G) and quash the order dated 22.04.2023 passed therein.

Prayer in W.P.No.15674 of 2023: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the respondent in his proceeding in DIN & Notice No. ITBA/AST/F/148A/2023-24/1052253033(1) (PAN ATWPR0019F) and quash the order dated 21.04.2023 passed therein.

Prayer in W.P.No.15677 of 2023: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the respondent in his proceeding in DIN & Notice No. ITBA/AST/F/148A/2023-24/1052251841(1) (PAN AALFN4448A) and quash the order dated 21.04.2023.

(In all cases):

For Petitioners : Mr.B.Raveendran
For Respondent : Mr.A.N.R.Jayaprathap
Junior Standing Counsel
for Mr.A.P.Srinivas
Senior Standing Counsel

C O M M O N O R D E R

By this common order, all the three Writ Petitions are disposed of.

2.In these Writ Petitions, the respective writ petitioner have challenged the proceedings of the respondent issued under clause (d) of Section 148A of the Income Tax Act, 1961 on 21.04.2023 and 22.04.2023 as detailed below:

Sl. No.	Writ Petition No.	Date	Impugned proceeding Number
1.	15671 of 2023	22.04.2023	ITBA/AST/F/148A/2023-24/1052277287(1)
2.	15674 of 2023	21.04.2023	ITBA/AST/F/148A/2023-24/1052253033(1)
3.	15677 of 2023	21.04.2023	ITBA/AST/F/148A/2023-24/1052251841(1)

3.It appears that there was a survey conducted under Section 133A of the Income Tax Act, 1961 on 20.02.2020 at the petitioners' place of business. Statements were also recorded from the persons, who are the partners of M/s.New Arcot Plywoods & Glasses, No.30, Gopal Naidu Street, Walajabath, Kanchipuram Taluk, Kanchipuram District – 631 605.

4.It appears that the statement were later retracted on 20.03.2020. Thereafter, notice under Section 148A(b) of the Income Tax Act, 1961 were issued to the respective petitioners. The petitioners have responded to the same and uploaded their reply on 15.04.2023, wherein they have asked for the documents based on which the statement were recorded.

5.It is submitted that the petitioners have not indulged in any transactions which were not disclosed to the Department and therefore, issuance of notice under Section 148A(b) of the Income Tax Act, 1961 was without jurisdiction. That apart, the petitioners were not given adequate opportunity of being heard before the impugned orders were passed.

6.The learned counsel for the petitioners has placed reliance on the decision of this Court in **M/s.India Electronics Vs. The Joint Commissioner of Income Tax and another** in W.P.No.8569 of 2006 decided on 09.01.2018. A specific reference was made to paragraph No.4 of the said order, wherein reliance of the decision of the Hon'ble Allahabad High Court in the case of **Dr.S.C.Gupta Vs. Commissioner of Income Tax**, [2001] 248 ITR 782 and Hon'ble Division Bench of this Court in the case of **Commissioner of Income Tax Vs. S.Khader Khan Son**, [2008] 300 ITR 157 (Mad) were placed by this Court.

7.It is submitted that the respondent has no authority to re-open the assessment based on the statement recorded during survey under Section 133A of the Income Tax Act, 1961.

8.The learned Standing Counsel for the respondent submits that the Writ Petitions are devoid of merits and submitted that all the Writ

Petitions are liable to be dismissed and prays for dismissal of all the Writ Petitions.

9.I have considered the arguments advanced by the learned counsel for the petitioner and the learned Standing Counsel for the respondent.

10.The petitioners have given their response to the notice issued under Section 148A(b) of the Income Tax Act, 1961 on 15.04.2023. In the response, the petitioners have not given complete reply, but have asked for certain documents which have not been furnished. The impugned orders were thereafter been passed on 21.04.2023 and 22.04.2023 and have thereafter proceeded with issuance of notices under Section 148 of the Income Tax Act, 1961.

11.The impugned orders are unsustainable as the petitioners have not been given adequate opportunity to respond to the notices issued under Section 148A(b) of the Income Tax Act, 1961.

12.Considering the same, the impugned orders are quashed and the cases are remitted back to the respondent for passing a fresh order on merits. The respondent shall furnish documents and details called for by these petitioners within a period of four (4) weeks from the date of receipt of a copy of this order. The petitioner shall respond to notices issued under Section 148A(b) of the Income Tax Act, 1961, by way of reply / additional representation within a period of four (4) weeks thereafter.

13.The respondent shall thereafter pass appropriate orders on merits and in accordance with law, within a period of four (4) weeks thereafter.

14.These Writ Petitions are disposed of with the above observations. Consequently, the connected miscellaneous petitions are closed. No costs.

04.09.2023

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

The Assistant Commissioner of Income Tax,
Central Circle 2 (3),
Chennai.

C.SARAVANAN, J.

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W.P.Nos.15671, 15674 & 15677 of 2023

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