IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2024

CORAM:

**THE HON'BLE MR JUSTICE C. SARAVANAN**

**W.P.Nos.7979 & 8111 of 2022**
**and**
**WMP.Nos.7968, 7969, 8095 and 8096 of 2022**

**W.P.No.7979 of 2022**

Bantval Ramesh Baliga ...Petitioner

Vs.

1.Deputy Commissioner of Income Tax,
Corporate Circle 1(1), Chennai
Wanaparthy Block, No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai – 600 034.

2.M/s.Baliga Lighting Company (Since dissolved)
Represented by its erstwhile partner, Mr.Ramesh Baliga,
No.63A, CP Ramaswamy Road,
Alwarpet, Chennai – 600 018.

3.Deputy Commissioner of Income Tax,
Non-Corporate Circle 3(1), Chennai
Wanaparthy Block, No.121, Mahatma Gandhi Road,
Nungambakkam,
Chennai – 600 034.

**Prayer in WP.No.7979 of 2022:** Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned notice under Section 148 dated 29/06/2021 having DIN & Notice No.ITBA/AST/S/148/2021-22/1033823730(1) for Asst. Year 2017-18 issued by the 1st respondent and quash the same as it is against law and direct the 3rd respondent to shift the petitioner's share of taxes, which was paid by the 2nd respondent firm (including TDS), to the account of the petitioner on the file of the 1st respondent and such shifted tax payments should be considered as tax payments made by the petitioner on 31/03/2017.

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| For Petitioner | : | Mr.K.Ravi |
| For Respondent | : | Mr.B.Ramana Kumar<br>Sr.Standing Counsel<br>for R1 & R2 |

**W.P.No.8111 of 2022**

Mr.Ramesh Baliga ...Petitioner

Vs.

1.Income Tax Officer,
Non-Corporate Ward 3(1), Chennai
Wanaparthy Block, No.121, Mahatma Gandhi Road,
Nungambakkam,

Chennai – 600 034.

2.National Faceless Assessment Centre, Delhi
Represented by Additional/Joint/Deputy/
Assistant Commissioner of Income Tax
Room No.401, 2nd Floor, E-Ramp,
Jawaharlal Nehru Stadium,
Delhi – 110 003.

3.M/s.Baliga Lighting Company (Since dissolved)
Represented by its erstwhile partner, Mr.Ramesh Baliga,
No.63A, CP Ramaswamy Road,
Alwarpet, Chennai – 600 018.

4.Deputy Commissioner of Income Tax,
Non-Corporate Circle 3(1), Chennai
Wanaparthy Block, No.121, Mahatma Gandhi Road,
Nungambakkam,
Chennai – 600 034. ...Respondents

**<u>Prayer in WP.No.8111 of 2022:</u>**Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned notice u/s.148 dated 31/03/2021 having DIN & Notice No.ITBA/AST/S/148/2020-21/1032044530(1) for Assessment Year 2017-18 issued by the 1st respondent and the consequential proceedings and order contained in notice u/s.148 dated 10.03.2022 having DIN:ITBA/AST/F/17/2021-22/1040567485(1) issued by the 2nd respondent and quash the same as it is against law and direct the 4th respondent to shift the petitioner's share of taxes, which was paid by the 3rd respondent firm (including TDS), to the account of the petitioner on the file of the 1st respondent and such shifted tax payments should be considered as tax payments made by the petitioner on 31.03.2017.

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|---|---|---|
| For Petitioner | : | Mr.K.Ravi |
| For Respondents | : | Mr.S.Rajasekar<br>Standing Counsel<br>for R1, R2 & R4 |

**COMMON ORDER**

Heard Mr.K.Ravi, learned counsel for the petitioner in both the writ petitions and Mr.B.Ramana Kumar, learned Sr. Standing Counsel for for R1 & R2 in W.P.No.7979 of 2022 and Mr.S.Rajasekar, learned Standing Counsel for R1,R2 & R4 in W.P.No.8111 of 2022.

2. With the consent of the learned counsel for the petitioner and learned counsel for the respondents, these writ petitions are being taken up and disposed of without expressing any opinion on the merits of the case.

3. In these writ petitions, the writ petitioners have challenged the respective notices issued under Section 148 of the Income Tax Act, 1961

and the consequential speaking order passed by the first respondent in W.P.No.8111 of 2022. The impugned notice issued under Section 148 of the Income Tax Act, 1961 has also culminated in a speaking order.

4. W.P.No.7979 of 2022 has been filed by Mr.Bantval Ramesh Baliga, the surviving partner of the firm viz., M/s.Baliga Lighting Company. W.P.No.8111 of 2022 has been filed by the legal heirs/legal representative of late Ms.Premalatha Umanath Baliga, who herself was the legal heir of late Mr.Mahesh Baliga who died on 24.12.2015. Late Mr.Mahesh Baliga was himself a partner of M/s.Baliga Lighting Company along with Mr.Bantval Ramesh Baliga the petitioner in W.P.No.7979 of 2022.

5. After the death of Mr.Mamesh Baliga, the partnership firm M/s.Baliga Lighting Company itself seized to exist. The immovable property of the said partnership firm was sold by Mr.Bantval Ramesh Baliga, the petitioner in W.P.No.7979 of 2022 along with the legal heirs of late Mr.Mahesh Baliga.

6. It is submitted by the learned counsel for the petitioner and the respective counsels for the respondents that the property of the partnership firm namely, M/s.Baliga Lighting Company was sold on **02.03.2017** and the capital gains tax were paid by the firm, although, the said legally the firm ceased to exist by operation of law and on account of the death of the other partner namely, late Mr.Mahesh Baliga on **24.12.2015**. The liability of the firm is now sought to be saddled on the legal heirs of Mr.Mahesh Baliga and the petitioner in W.P.No.7979 of 2022.

7. It appears that the capital gains tax, arising out of the sale of the property of the firm was said to be set off by way of investment in the Rural Electrification Bonds for Rs.50/- Lakhs each, amounting to Rs.2,00,00,000/, by four of the legal heirs of late Mr.Mahesh Baliga. Thus, the liability of the firm, from the sale of its assets can only be assessed only once, either in the hands of the firm or in the hands of the legal heirs, this aspect has to be examined.

8. Under these circumstances, these writ petitions are disposed of, by directing the respondents to pass a fresh order, in the light of the above facts and considering the submissions that as to whether the investment of Rs.2,00,00,000/- would satisfy the requirement of the tax liability arising out of the sale of property on **02.03.2017** by Mr.Bantval Ramesh Baliga the petitioner in W.P.No.7979 of 2022 along with the legal heirs of Late Mr.Mahesh Baliga. This exercise may be carried out within a period of eight (8) weeks from the date of receipt of copy of this order. No costs. Connected Miscellaneous Petitions are closed.

**26.11.2024**

Index : Yes/No
Speaking/Non-Speaking Order
Neutral Citation Case : Yes/No
***nst***

To:

1.The Income Tax Officer,
Non-Corporate Ward 3(1), Chennai
Wanaparthy Block, No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai – 600 034.

2.National Faceless Assessment Centre, Delhi
Represented by Additional/Joint/Deputy/
Assistant Commissioner of Income Tax
Room No.401, 2nd Floor, E-Ramp,
Jawaharlal Nehru Stadium,
Delhi – 110 003.

3.The Deputy Commissioner of Income Tax,
Corporate Circle 1(1), Chennai
Wanaparthy Block, No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai – 600 034.

4.The Deputy Commissioner of Income Tax,
Non-Corporate Circle 3(1), Chennai
Wanaparthy Block, No.121, Mahatma Gandhi Road,
Nungambakkam,
Chennai – 600 034.

**C. SARAVANAN, J.**

***nst/jas***

**W.P.Nos.7979 & 8111 of 2022**
**and WMP.Nos.7968, 7969, 8095 and 8096 of 2022**

**26.11.2024**