IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.01.2025

Coram:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.6396, 6401 & 6405 of 2022
and W.M.P.Nos.6479, 6482, 6484 & 6486 of 2022

M/s.Orient Green Power Company Limited,
Sigappi Ache Building, 4th Floor,
No.18/3, Rukmani Lakshmipathy Salai,
Egmore, Chennai – 600 008.
Represented by its Chief Financial Officer

...Petitioner in all W.Ps

Versus

1.Assistant Commissioner of Income Tax,
Circle 1 LTU Chennai,
Aayakar Bhavan Main Building,
121 MG Road, Nungambakkam,
Chennai – 600 034.

2.National Faceless Assessment Centre,
Room No.401, 2nd Floor, E-Ramp,
Jawaharlal Nehru Stadium,
Delhi – 110 003.

...Respondents in all W.Ps

Prayer in W.P.No.6396 of 2022:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the 1st respondent herein leading to issuance of Notice dated 30.03.2021 vide DIN:ITBA/AST/S/148/2020-21/1031907273(1) and quash the same.

Prayer in W.P.No.6401 of 2022:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the 1st respondent herein leading to issuance of Notice dated 30.03.2021 vide DIN:ITBA/AST/S/148/2020-21/1031906165(1) and quash the same.

Prayer in W.P.No.6405 of 2022:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the 1st respondent herein leading to issuance of Notice dated 31.03.2021 vide DIN:ITBA/AST/S/148/2020-21/1032004635(1) and quash the same.

For Petitioner in all W.Ps	:	Mr.S.Sathiyanarayanan
For Respondents in all W.Ps	:	Mr.S.Rajasekar, Standing Counsel

COMMON ORDER

Heard Mr.S.Sathiyanarayanan, learned counsel for the petitioner and Mr.S.Rajasekar, learned Standing Counsel for the respondents.

2. The present writ petition has been filed by the petitioner challenging the Notices dated 30.03.2021 bearing DIN:ITBA/AST/S/148/2020-21/1031907273(1), dated 30.03.2021 bearing DIN:ITBA/AST/S/148/2020-21/1031906165(1) and dated 31.03.2021

bearing DIN:ITBA/AST/S/148/2020-21/1032004635(1) respectively issued under Section 148 of the Income Tax Act, 1961 (hereinafter referred to as "IT Act") by the 1st respondent.

3. By the impugned notices, the 1st respondent had proposed to reopen the assessment of the petitioner company for the Assessment Years 2015-16, 2017-18 & 2013-14 respectively. Details of the impugned notices in the present writ petitions are tabulated hereunder:

Sl.No.	Writ Petition No.	Date & DIN Number of Notice issued u/s.148 of the IT Act	Assessment Year
1	6396/2022	30.03.2021 & DIN: ITBA/AST/S/148/2020-21/1031907273(1)	2015-16
2	6401/2022	30.03.2021 & DIN: ITBA/AST/S/148/2020-21/1031906165(1)	2017-18
3	6405/2022	31.03.2021 & DIN: ITBA/AST/S/148/2020-21/1032004635(1)	2013-14

4. The assessment were completed and Assessment Orders were also passed for the respective assessment years as detailed below:

Sl.No.	Writ Petition No.	Date of the Assessment Order	Assessment Year
1	6396/2022	29.01.2019	2015-16
2	6401/2022	10.12.2019	2017-18
3	6405/2022	23.03.2016	2013-14

5. After the assessment orders were passed, the 1st respondent has issued the impugned notices to the petitioner, wherein, it is proposed to reopen the assessment that was completed for the Assessment Years 2015-16, 2017-18 & 2013-14. Subsequent to the issuance of impugned notices, the petitioner was issued with Notices under Section 147 of the IT Act, to which, the petitioner had also filed its objections along with all relevant documents.

6. However, the 2nd respondent has overruled the objections of the petitioner for reopening of assessment for the Assessment Years 2015-16, 2017-18 & 2013-14, in accordance with the guidelines laid down by the Hon'ble Supreme Court in the case of ***GKN Driveshafts (India) Ltd. Vs. Income Tax Officer & Ors.*** reported in ***(2003) 259 ITR 19 (SC)*** as well as the guidelines laid down by the Gujarat High Court in the case of ***Sahkari Khand Udyog Mandal Ltd. Vs. Assistant Commissioner of Income Tax (Special Civil Application No.3955 of 2014)*** vide separate speaking orders dated 15.02.2022, 24.01.2022 & 14.02.2022 respectively.

7. It is seen that W.P.No.6390 of 2022 was also filed along with the present writ petitions. When all these writ petitions were came up for admission on 23.03.2022, this Court had passed the following order:

> *"Heard Mr.S.Sathianarayanan, learned counsel for the petitioner. The reasons for reopening the assessment under Section 147 of the Income Tax Act, 1961 have been perused.*
>
> *After hearing the learned counsel for the petitioner as well as Mr.Prabhu Mukunth Arunkumar, learned Junior Standing Counsel, who took notice on behalf of the respondents, I am of the view that in this matter, let the assessment under Section 147 can go on, however, no final order of assessment shall be passed until further orders from this Court.*
>
> *Post the matter after four weeks. In the meanwhile, counter shall be filed by the respondents."*

8. Thereafter, when all these writ petitions were came up for hearing on 15.11.2024, this Court has dismissed W.P.No.6390 of 2022 with the following observation:

> *"12. Prima facie it appears that the reopening of the assessment was justified. It is noticed that the reasons stated in the letter dated 19.08.2021 also brings out the same. Therefore, there is no merits in challenge to impugned notice dated 30.03.2021 or the speaking order dated 24.01.2022, as the petitioner has not given the true and full disclosure of all material information before the assessment was passed on 29.01.2018. Therefore, the Writ Petition is liable to be dismissed.*
>
> *13. Accordingly, the Writ Petition is dismissed. Consequently, connected miscellaneous petitions are closed. No costs."*

9. In the present case, the petitioner has challenged the notices issued under Section 148 of the IT Act only after the 2nd respondent had overruled its objections by way of speaking orders dated 15.02.2022, 24.01.2022 &

14.02.2022 respectively. Therefore, the petitioner's challenge to the impugned notices issued under Section 148 of the IT Act cannot be countenanced.

10. That apart, if the petitioner had approached this Court immediately after the issuance of the impugned notices on the ground that the same were issued without jurisdiction, these writ petitions would have been entertained on merits. Therefore, these writ petitions are liable to be dismissed.

11. Accordingly, these Writ Petitions are dismissed. It is open for the concerned Adjudicating Authority to decide the re-opening of assessment of the petitioner company for the Assessment Years 2015-16, 2017-18 & 2013-14. No costs. Consequently, connected miscellaneous petitions are closed.

20.01.2025

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Index : Yes/No
Speaking Order (or) Non-Speaking Order

To

1.Assistant Commissioner of Income Tax,
Circle 1 LTU Chennai,
Aayakar Bhavan Main Building,
121 MG Road, Nungambakkam,
Chennai – 600 034.

2.National Faceless Assessment Centre,
Room No.401, 2nd Floor, E-Ramp,
Jawaharlal Nehru Stadium,
Delhi – 110 003.

C.SARAVANAN, J.

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W.P.Nos.6396, 6401 & 6405 of 2022

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