IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.10.2025

PRONOUNCED ON : 25.11.2025

CORAM

THE HONOURABLE MR.JUSTICE C. SARAVANAN

W.P.No.14968 of 2022 & WMP.Nos.14191 & 14192 of 2022
and
W.P.No.15015 of 2022 & WMP.Nos.14232 & 14233 of 2022

Sadhana Prakash	...	Petitioner in W.P.No.14968 of 2022
Lalithabai Sukanraj	...	Petitioner in W.P.No.15015 of 2022

vs.

The Assistant Commissioner of Income Tax Central Circle 3(1), Chennai – 600 034....	Respondent in both Wps.

PRAYER in W.P.No.14968 of 2022: The Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorari to call for the impugned Notice dated 30.03.2021 issued u/s.148 of the Income Tax Act, 1961, in PAN:AAIPP3264B having DIN & Notice

No.ITBA/AST/S/148/2020-21/1031945176(1) ITBA e-filing portal for Asst. year 2017-18 issued by the respondent and the consequential assessment order dated 31.03.2022 in ITBA/AST/S/147/2021 -22 /1042333171(1) in PAN No.AAIPP3264B, passed by the respondent for Asst. Year 2017-18, and quash the same as illegal.

PRAYER in W.P.No.15015 of 2022: The Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorari to call for the original impugned Notice dated 30.03.2021 issued u/s.148 of the Income Tax Act, 1961, in PAN:AAXPS0401M having DIN & Notice No.ITBA/AST/S/148/2020-21/1031945182(1) ITBA e-filing portal for Asst. Year 2017-18 issued by the respondent and the consequential assessment order dated 31.03.2022 in ITBA/AST/S/147/2021 -22 /1042342692(1) in PAN No.AAXPS0401M, for Asst.Year 2017-18, passed by the respondent and quash the same as illegal.

For petitioner (in both Wps)	...	Mr.Varun Ranganathan for Mr.K.Ravi
For Respondent (in both Wps)	...	Mr.A.P.Srinivasan Senior Standing Counsel and Mr.A.N.R.Jayaprathap Standing Counsel

COMMON ORDER

In these two writ petitions, the petitioners had challenged the respective impugned notices issued under Section 148 of the Income Tax Act, 1961 for the assessment year 2017-18 both dated 30.03.2021 and the assessment orders passed under Section 147 of the Income Tax Act against both the petitioners.

2.The petitioners, who are daughter-in-law and mother-in-law, are before this Court. The respective impugned orders were proceeded by respondents under Section 148 of the Income Tax Act, pursuant to which, the respective petitioners filed their return of income. The petitions were furnished with the reasons for issuance of notices under Section 148 of the Income Tax Act, 1961 vide notice under 143(2) dated 31.11.2021.

3.The reasons for re-opening the assessment for the respective petitioners are identical and were furnished to the petitioners on 03.11.2021 vide notice under 143 (2) dated 31.11.2021. The reasons communicated for issuance of notices under Section 148 of the Income Tax Act to the respective petitioners vide notice under 143 (2) dated 31.11.2021 read as under:

<u>In W.P.No.14968 of 2022</u>

"ANNEXURE"

A search and seizure action was conducted on a syndicate of persons led by Shri Naresh Jain on 19.03.2019. During the course of search and seizure action, several incriminating documents, communications and digital data has been found, which led to unearth the operations of the syndicate, establishing clearly the modus operandi of providing Bogus Long term capital gain (LTCG) / Loss. Shri Naresh Jain was

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discovered to be operating with his several associates to rig the stock market and to provide accommodation entries (in the form of bogus LTCG, bogus short term loss/gain) to various beneficiaries who intended to bring their unaccounted income into their books of account without paying taxes. Cash was deposited in various dummy bank accounts and then layered through several pass-through bank accounts and then would reach the bank accounts linked to dummy Trading accounts. The assessee is also a beneficiary of the same. ***As per information available with the department, an amount of Rs.53,77,000/- has escaped assessment in this case.***	*Loss. Shri Naresh Jain was discovered to be operating with his several associates to rig the stock market and to provide accommodation entries (in the form of bogus LTCG, bogus short term loss/gain) to various beneficiaries who intended to bring their unaccounted income into their books of account without paying taxes. Cash was deposited in various dummy bank accounts and then layered through several pass-through bank accounts and then would reach the bank accounts linked to dummy Trading accounts. The assessee is also a beneficiary of the same.* ***As per information available with the department, an amount of Rs.54,49,000/- has escaped assessment in this case.***

4.After the reasons were furnished to the respective petitioners, they were issued with Show Cause Notices both dated 23.03.2022, which have ultimately culminated in the impugned Assessment Orders both dated 31.03.2022.

5.The respective petitioners have purportedly purchased shares of M/s.Mono Herbicides Ltd., for Rs.3,00,000/- each on 07.06.2011 . They have sold these shares during the financial year 2016 – 2017 for a sum of **Rs.53,49,004/-** and **Rs.54,49,000/-** as detailed below:

W.P.No.14968 of 2022		**W.P.No.15015 of 2022**	
Purchase of Share Value on 07.06.2011	Rs.3,00,000/-	Purchase of Share Value on 07.06.2011	Rs.3,00,000/-
Sale of share value in the year 2017-18	Rs.53,49,004/-	Sale of share value in the year 2017-18	Rs.54,49,000/-

6.The impugned proceedings are challenged primarily on three grounds. It is submitted that the entire proceedings are without jurisdiction as only proceedings under Section 153C of the Income Tax Act, 1961 ought to have been initiated against the petitioners after search was conducted at the premises of the said Sri Naresh Jain on 19.03.2019 who was proceeded under such 153 A of the Income Tax Act, 1961.

7.In this connection, learned counsel for the petitioners has placed reliance on the decision of the Hon'ble Supreme Court in ***Principal Commissioner of Income Tax, Central – 3 Vs. Abhisar Buildwell P.Ltd.,*** reported in ***2023 SCC OnLine SC 481. S***pecifically, the learned counsel for the petitioner has placed reliance on paragraphs 19, 20 and 23 of the said decision.

8.It is submitted that on a conjoined reading of Section 153 A, B & C of the Income Tax Act, 1961 and para 19 to 23 from the decision of the Hon'ble Supreme Court, the only option available to the Department was to issue a notice under Section 153C of the Income Tax Act, 1961 instead of issuing notice under Section 148 of the Income Tax Act on the dates mentioned above. It is therefore submitted that impugned orders are liable to be quashed.

9.It is further submitted that when the law mandate, a particular thing to be done in a particular manner, then there cannot be any deviation. In this connection, a reference was made to the decision of the Supreme Court in ***Chandra Kishore Jha v.Mahavir Prasad (1999) 8 SCC 266*** *followed in* ***OPTO Circuit India Ltd., Vs. Axis Bank*** reported in ***(2021) 165 SCL 703 (SC).*** *S*pecifically learned counsel for the petitioners has placed reliance on the following passage from the above judgments.

> ***"It is a well settled salutary principle that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner".***

> ***Therefore, if the salutary principle is kept in perspective, in the instant case, though the Authorised Officer is vested with sufficient power; such power is circumscribed by a procedure laid down under the statute. As such the power is to be exercised in that manner alone, failing which it would fall foul of the requirement of complying due process under law. We have found fault with the Authorised Officer and declared the action bad only in so far as not following the legal***

requirement before and after freezing the account. This shall not be construed as an opinion expressed on the merit of the allegation or any other aspect relating to the matter and the action initiated against the appellant and its Directors which is a matter to be taken note in appropriate proceedings if at all any issue is raised by the aggrieved party.

10.That apart, it is submitted that statements were recorded from various persons, particularly, one Naresh Jain on the date mentioned above and therefore, petitioners should have been given an opportunity of cross examining those persons.

11.It is submitted that since no cross examination was allowed, Impugned orders are to be held to be arbitrary and therefore, liable to be quashed. That apart, learned counsel for the petitioners would submit that impugned order refers to the names such as Shri Ghisulal Ramesh Kumar and one M.R.Jayakumar. Particulars of these names were not furnished to the petitioners in the show cause notice that proceeded the impugned orders.

12.Therefore, it is submitted that there has been a manifest violation of principle of natural justice and therefore, the impugned orders are liable to be quashed. That apart, it is submitted that the impugned orders are arbitrary and therefore, the impugned orders are liable to be quashed. Finally, learned counsel for the petitioner has placed reliance in the order of this Court in the case ***Saloni Prakash Kumar*** in W.P.No.22792 of 2023 vide order dated 05.09.2023 who is none other than the husband of the petitioner in W.P.No.14968 of 2022 and son of the petitioner in W.P.No.15015 of 2022.

13.It is submitted that in W.P.No.22792 of 2023, this Court by its order dated 05.09.2023, had quashed a similar assessment order and remitted the case back. It is therefore submitted that on this ground also, the impugned orders be quashed and the case be remitted back to the respondents with a direction to the respondents to comply with the principle of natural justices.

14.In support of his contention, the learned counsel for the petitioners has placed reliance on the following decisions:

1.Harbanslal Sahnia and another Vs. Indian Oil Corpn. Ltd. And others reported in **(2003) 2 Supreme Court Cases 107.**

2.Principal Commissioner of Income Tax, Central – 3 Vs. Abhisar Buildwell P.Ltd., reported in **2023 SCC OnLine SC 481.**

3.Sri Dinakara Suvarna Vs. Deputy Commissioner of Income-tax reported in ***(2022) 143 taxmann.com 362 (Karnataka).***

4.Shyam Sunder Khandelwal Vs. Assistant Commissioner of Income-tax *reported in* ***(2024) 161 taxmann.com 255 (Rajasthan).***

5.Sejal Jewellary Vs. Union of India *reported in* ***(2025) 171 taxmann.com 846 (Bombay).***

6.A.ST.Arunachalam Pillai Vs. Southern Roadways Ltd. And another *reported in* ***1960 SCC OnLine SC 303.***

7.Anil Kumar Gupta and others Vs. State of U.P. And others *reported in* ***(1995) 5 Supreme Court Cases 173.***

8.P.N.Eswara Iyer and others Vs. Registrar, Supreme Court of India *reported in* ***(1980) 4 Supreme Court Cases 680.***

9.The judgment of this Court in W.P.No.20694 of 2023 dated 27.11.2023 (Naresh Sangeetha Vs. Income Tax Officer and another).

10.Kishinchand Chellaram Vs. Commissioner of Income-tax *reported in* ***(1980) 4 Taxman 29 (SC).***

11.Sree Trading Corporation Vs. Income-tax Officer *reported in* ***(2023) 151 taxmann.com 486 (Telangana).***

12.Andaman Timber Industries Vs. Commissioner of Central Excise, Kolkata-II *reported in* ***(2015) 62 taxmann.com 3 (SC).***

13.Principal Commissioner of Income-tax Vs.Indravadan jain, HUF reported in ***(2023) 156 taxmann.com 605 (Bombay).***

15. The learned counsel for the respondent, on the other hand, would submit that the impugned proceedings cannot be said to be without jurisdiction. It is submitted that if a notice under Section 153C of the Income Tax Act 1961 was issued, the procedure under Section 153C had to be followed. It is submitted that the procedure under Section 153 C of the Income Tax Act 1961 need not be followed in all cases; therefore, there is no merit in the challenge raised in the present writ petitions.

16.It is further submitted that it is open to the Assessing Officer either to invoke Section 148 of the Income Tax Act 1961 as it stood till 01.04.2021 under the old regime, by issuing a notice under Section 148 for passing an order under Section 147 of the Income Tax Act 1961 or to follow the procedure under Section 153C, where a satisfaction note is issued by the officers at the end of the searched persons under Section 153A of the Income Tax Act, 1961. It is therefore, submitted that there is no merit in the present writ petitions.

17.As far as the challenge to the impugned orders on the ground that cross examination of Sri Naresh Jain was not allowed, cannot be passed. as assessment proceedings under the Income Tax Act,1961 are based on the preponderance of probabilities based on the available materials and not based on any of the strict principles of law applicable to the criminal proceedings. It is therefore submitted that on this ground also, the writ petitions are liable to be dismissed.

18.Finally, learned counsel for the respondent submitted that the reference to the names mentioned above in the impugned orders is based on the records that were available and on this ground also, the impugned orders cannot be challenged. Hence, the writ petitions are liable to be dismissed.

19.Having considered the submissions made by the learned counsel for the petitioners and the learned counsel for the respondent, and having considered the facts of the case and the case laws referred to by the learned counsel for the petitioners, I am of the view that there is no merits in these writ petitions.

20.The challenge to the impugned notices dated 30.03.2021 issued under Section 148 of the Income Tax Act, 1961 or the orders dated 21.3.2022 passed under Section 147 of the Income Tax Act 1961, are not assailable on the grounds stated in the present writ petitions.

21.It is not open to the petitioners to contend that the Department was bound to issue a notice only under Section 153C of the Income Tax Act, 1961, as it stood till 31.03.2021 (under the old regime) after search proceedings under Section 132 were initiated against the said Naresh Jain on 19.03.2019.

22.Merely because proceedings were initiated against the said Naresh Jain, under Section 153A of the Income Tax Act 1961, for six assessment years, relevant to the previous year, in which, search was conducted or requisition is made in terms of Section 153A(b) of the Income Tax Act, 1961 after search proceedings under Section 132 was conducted at the premises of the said Naresh Jain on 19.03.2019 *ipso facto* would not imply that the Department was perforce duty bound to proceed against petitioner under Section 153 C of the Income Tax Act, 1961.

23.In paras 19, 20 & 23 of the Supreme Court in ***Principal Commissioner of Income Tax, Central – 3 Vs. Abhisar Buildwell P.Ltd.,*** has held as under:

"19. On a plain reading of Section 153A of the Act, 1961, it is evident that once search or requisition is made, a mandate is cast upon the AO to issue notice under Section 153 of the Act to the person, requiring him to furnish the return of income in respect of each assessment year falling within six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made and assess or reassess the same.

20. As per the provisions of Section 153A, in case of a search under Section 132 or requisition under Section 132A, the AO gets the jurisdiction to assess or reassess the 'total income' in respect of each assessment year falling within six assessment years. However, it is required to be noted that as per the second proviso to Section 153A, the assessment or re-assessment, if any, relating to any assessment year falling within the period of six assessment years pending on the dae of initiation of the search under Section 132 or making of requisition under Section 132A, as the case may be, shall abate. As per sub-section (2) of Section 153A, if any proceeding initiated or any order of assessment or reassessment made under sub-section (1) has been annulled in appeal or any other legal proceeding, then, notwithstanding anything contained in sub-section (1) or section 153, the assessment or reassessment relating to any assessment year which has abated under the second proviso to subsection (1), shall stand revived with effect from the date of receipt of the order of such annulment by the Commissioner. Therefore, the intention of the legislation seems to be that in case of search only the pending assessment/reassessment proceedings shall abate and the AO would assume the jurisdiction to assess or reassess the 'total income' for the entire six years period /block assessment period. The intention does not seem to be to re-open the completed/unabated assessments, unless any incriminating material is found with respect to concerned assessment year falling within last six years preceding the search. Therefore, on true interpretation of Section 153A of the Act, 1961, in case of a search under Section 132 or requisition under Section 132A and during the search any incriminating material is found, even in case of unabated/completed assessment, the AO would have the jurisdiction to assess or reassess the 'total income' taking into consideration the incriminating material collected during the search and other material which would include income declared in the returns, if any, furnished by the assessee as well as the undisclosed income. However, in case during the search no incriminating material is found, in case of completed/unabated assessment, the only remedy available to the Revenue would be to initiate the reassessment proceedings under sections 147/48 of the Act, subject to

fulfilment of the conditions mentioned in sections 147/148, as in such a situation, the Revenue cannot be left with no remedy. Therefore, even in case of block assessment under Section 153A and in case of unabated/completed assessment and in case no incriminating material is found during the search, the power of the Revenue to have the reassessment under sectons 147/148 of the Act has to be saved, otherwise the Revenue would be left without remedy.

21....

22.. . .

23. In view of the above and for the reasons stated above, it is concluded as under:

i) that in case of search under Section 132 or requisition under Section 132A, the AO assumes the jurisdiction for block assessment under section 153A;

ii) all pending assessments/reassessments shall stand abated;

iii) in case any incriminating material is found/unearthed, even, in case of unabated/completed assessments, the AO would assume the jurisdiction to assess or reassess the 'total income' taking into consideration the incriminating material unearthed during the search and the other material available with the AO including the income declared in the returns; and

iv)in case no incriminating material is unearthed during the search, the AO cannot assess or reassess taking into consideration the other material in respect of completed assessments/unabated assessments, no addition can be made by the AO in absence of any incriminating material found during the course of search under Section 132 or requisition under Section 132A of he Act,

> 1961. However, the completed/unabated assessments can be reopened by the AO in exercise of powers under Sections 147/148 of the Act, subject to fulfilment of the conditions as envisaged/mentioned under sections 147/148 of the Act and those powers are saved.

24.Thus, it is clear that merely because the searched person, namely, Naresh Jain was issued Show Cause Notice under Section 153 A of the Income Tax Act and proceeded accordingly would not mean that the petitions should be proceeded and Section 153 C of the Income Tax Act, 1961.

25. Only if the proper Assessing Officer within whose jurisdiction the searched person, namely, Naresh Jain, falls, had come to the conclusion that a notice was to be issued by his counterpart within whose jurisdiction the other persons reside and whose income would be liable to be taxed, a

notice under Section 153C of the Income Tax Act, 1961, is to be issued.

26.Whereas, in this case, there are no indications that such an order has been passed by the Jurisdictional Assessing Officer within whose jurisdiction the searched person was assessed to invoke jurisdiction under section 153C of the Income Tax Act 1961. That apart, for invoking Section 153C of the Income Tax Act 1961, certain statutory conditions have to be satisfied.

27.The argument that the amount exceeded Rs.50 lakhs and therefore, a notice under Section 153C should have been issued, also does not further the case of the petitioners. The argument of the learned counsel for the petitioners that the request for cross examination of Naresh Jain was not extended to the petitioners is concerned, the same also cannot be countenanced.

28.The statements recorded from the said Naresh Jain merely states the facts. That apart, the request for cross examination was made only on 24.03.2022, that is, after the show cause notice was issued on 23.03.2022 i.e. few days before the order was passed. On this count also, the impugned orders do not warrant any interference.

29.Therefore, the argument of the petitioners that the proceedings initiated against them were without jurisdiction cannot be countenanced. The officers were competent to proceed under Section 148 of the Act, against the petitioners. Therefore, these writ petitions are liable to be dismissed on the grounds stated during the course of hearing.

30. Therefore, the writ petitions are liable to be dismissed. No costs. Consequently, the connected miscellaneous petitions, if any, are closed.

Index : Yes/No **25.11.2025**

Internet : Yes/No

sms

To

1.The Assistant Commissioner of Income Tax

Central Circle 3(1), Chennai – 600 034.

C.SARAVANAN,J.,

sms

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WMP.Nos.14191 & 14192 of 2022
and

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