IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 16942 of 2022
and
W.M.P. Nos. 16224 & 16225 of 2022

C. Sreekumar ...Petitioner

Versus

1.The Income Tax Officer,
Non Corp. Ward-10 (3) Che
No.121, Mahatma Gandhi Road,
Nungambakkam,
Chennai – 600 034.

2.Principal Chief Commissioner of Income Tax,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai – 34. ...Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari, to call for the records on the file of the 1st respondent in PAN.AAHFR9472Q and quash the impugned order in DIN and Notice No.ITBA/AST/F/148A/2022-23/1042420610(1) dated 01.04.2022 passed under clause (d) of Section 148A of the Income Tax Act, 1961 for the Assessment Year 2015-16 as illegal and without jurisdiction.

For Petitioner : Ms. A. Sharren
for Mr. R. Sivaraman

For Respondents : Mrs. S. Premalatha,
Senior Standing Counsel

ORDER

In this Writ Petition, the Petitioner has challenged the impugned order dated 01.04.2022 passed under Section 148A(d) of the Income Tax Act, 1961 and the consequential notice issued under Section 148 of the Income Tax Act, 1961, as inforce with effect from 01.04.2021.

2. The case of the Petitioner appears to be that the Petitioner was originally carrying on business as a partnership concern and that with effect from 28.01.2013, the other partner namely, one NDR Prasad exited and an intimation was sent to the Department for cancellation of the PAN standing in the name of the partnership firm on 12.08.2019.

3. That apart, it is the case of the Petitioner that for the relevant Assessment Year 2015-2016 (Previous Year 2014-2015), the income has been accounted in the individual name with individual PAN No.APGPS5803Q.

4. It is submitted that the Petitioner had also given a detailed reply to the notice issued under Section 148A(b) of the Act dated 17.03.2022 vide reply dated 24.03.2022. However, without considering the same, the impugned order has been passed.

5. Learned Senior Standing Counsel for the Respondents on the other hand would submit that there are no record to substantiate that the partnership firm had been indeed dissolved as early as 28.01.2013 or that any intimation was sent earlier on 12.08.2019 for cancellation of the aforesaid PAN. Hence, the partnership firm was assessed. It is further submitted that impugned order is well reasoned order and therefore, it is for Petitioner to participate in the further proceedings pursuant to the issuance of notice under Section 148 of the Income Tax Act, 1961.

6. By way of re-joinder, the learned counsel for the Petitioner submitted that the partnership firm was not in existence and therefore, on this count, the impugned order is liable to be quashed in the light of the decision of the Supreme Court in **Principal Commissioner of Income Tax,**

New Delhi v. Maruti Suzuki India Ltd., reported in **(2019) 265 Taxman 515**.

7. Learned Senior Standing Counsel for the Respondents on the other hand would submit that in the response dated 24.03.2022, the Petitioner has merely stated that the management had changed and had not stated that the constitution of the business was altered and therefore, submits that there is no mistake or error in the impugned order warranting any interference.

8. Have considered the arguments advanced by the learned counsel for the Petitioner and the learned Senior Standing Counsel for the Respondents.

9. Relevant portion of the impugned order dated 01.04.2022 passed under Section 148A(d) of the Income Tax Act, 1961 is reproduced below: -

> *"2. Hence notice u/s 148A(b) was issued to the assessee on 17.03.2022 with the prior approval of PCCIT, Chennai requiring him to show cause by 24.03.2022 as to why a notice u/s 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant AY. The information in the possession of the undersigned was also communicated to the assessee while granting such opportunity of being heard."*

10. Reading of the aforesaid order indicates that there is no clear discussion on the objections raised by the Petitioner. Therefore, the impugned order is quashed and the case is remitted back to the 1st Respondent to pass a fresh order on merits as expeditiously as possible preferably within a period of six months from the date of receipt of copy of this order considering the fact that dispute pertains to the Assessment Year 2015-2016. Needless to state, the Petitioner shall be heared.

11. With the above observations, this Writ Petition is disposed of. Consequently, connected

07.10.2025

Index : Yes/No
Neutral Citation :Yes/No
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