IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-11-2025

CORAM

THE HONOURABLE MR JUSTICE C. SARAVANAN

WP No. 13607 of 2022
AND
WMP NO. 12827 OF 2022,WMP NO. 12829 OF 2022

1. Sooriya Hospital
Rep. by its Partner, Dr.C.P.Sreekumar,
1/1, Arunachalam Road, Saligramam,
Chennaii-600 026.

Petitioner(s)

Vs

1. Deputy Commissioner of Income Tax
Non-Corporate Circle 8(1),
Nungambakkam, Chennai-600 024.

Respondent(s)

PRAYER

Calling for the entire records of the respondent contained in DIN and Letter No.ITBA/ COM/F/ 17/ 2022-23/ 1043118001(1) dated 23.05.2022 for AY 2014-15, for PAN AALFS1340N and to quash the same as arbitrary, unjust and unlawful and consequently forbear the respondent or its superiors, subordinates, agents etc. from re-assessing the petitioners income for the Assessment Year 2014-15 under Section 147 of the Income Tax Act, 1961

For Petitioner(s): M/S Suhrith Parthasarathy
Arun Karthik Mohan
Ashwini Vaidialingam
Sithara Sarangan
Amritha Sathyajith

For Respondent(s): Ms. S. Premalatha
Senior Standing Counsel

ORDER

This is the second round of litigation before this Court. Earlier, the petitioner was issued with a notice under Section 148 of the Income Tax Act, 1961 as per the provisions as stood till 31.03.2021. The petitioner has challenged the jurisdiction of the assessing officer for issuing the aforesaid notice before this Court in W.P. No.15567 of 2021.

2. By a common order dated 04.02.2022, the Division Bench of this Court quashed all notices in a batch of writ petitions. There, the Court had followed the views taken by the Allahabad High Court. Relevant portion from the order of the Division Bench dated 04.02.2022 is reproduced below:

"19. In view of the ratio propounded by the Allahabad and Delhi High Courts on the subject, the reassessment notices

under Section 148 of the Act of 1961 served on the petitioners on or after 1.4.2021 are set aside having been issued in reference to the unamended provisions and the Explanations are to be read as applicable to reassessment proceedings if initiated on or prior to 31.3.2021, but it would be with liberty to the assessing authorities to initiate reassessment proceedings in accordance with the provisions of the Act of 1961, as amended by the Finance Act, 2021, after making all the compliances as required by law, if limitation for it survives."

3. Later, the Honourable Supreme Court passed order in ***Union of India Vs. Ashish Agarwal., (2023) 1 SCC 617*** on **04.05.2022**, had observed as under:

"26. *In view of the above and for the reasons stated above, the present appeals are allowed in part. The impugned common judgments and orders [Ashok Kumar Agarwal v. Union of India, 2021 SCC OnLine All 799] passed by the High Court of Judicature at Allahabad in WT No. 524 of 2021 and other allied tax appeals/petitions, is/are hereby modified and substituted as under:*

(i) The impugned Section 148 notices issued to the respective assessees which were issued under unamended Section 148 of the IT Act, which were the subject-matter of writ petitions before the various respective High Courts shall be deemed to have been issued under Section 148-A of the IT Act as substituted by the Finance Act, 2021 and construed or treated to be show-cause notices in terms of Section 148-A(b). The assessing officer shall, within thirty days from today provide to the respective assessees information and material relied upon by the Revenue, so that the assessees

can reply to the show-cause notices within two weeks thereafter.

(ii) The requirement of conducting any enquiry, if required, with the prior approval of specified authority under Section 148-A(a) is hereby dispensed with as a one-time measure vis-à-vis those notices which have been issued under Section 148 of the unamended Act from 1-4-2021 till date, including those which have been quashed by the High Courts.

(iii) Even otherwise as observed hereinabove holding any enquiry with the ***prior approval*** *of specified authority is* ***not mandatory*** *but it is for the assessing officers concerned to hold any enquiry, if required.*

(iv) The assessing officers shall thereafter pass orders in terms of Section 148-A(d) in respect of each of the assessees concerned; Thereafter after following the procedure as required under Section 148-A may issue notice under Section 148 (as substituted).

(v) All defences which may be available to the assessees including those available under Section 149 of the IT Act and all rights and contentions which may be available to the assessees concerned and Revenue under the Finance Act, 2021 and in law shall continue to be available."

4. It is in this background, the impugned notice has been issued to the petitioner on 23.05.2022 under Section 148A(b) of the Income Tax Act, 1961.

5. The above decision was later clarified by the Hon'ble Supreme Court in **Union of India** vs. **Rajeev Bansal**, 2024 SCC Online SC 2693. In Paragraph No.114, it was concluded as follows:-

> *"**114.** In view of the above discussion, we conclude that:*
>
> *(a) After April 1, 2021, the Income-tax Act has to be read along with the substituted provisions;*
>
> *(b) Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 will continue to apply to the Income-tax Act after April 1, 2021 if any action or proceeding specified under the substituted provisions of the Income-tax Act falls for completion between March 20, 2020 and March 31, 2021;*
>
> *(c) Section 3(1) of the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 overrides section 149 of the Income-tax Act only to the extent of relaxing the time limit for issuance of a reassessment notice under section 148;*
>
> *(d) Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 will extend the time limit for the grant of sanction by the authority specified under section 151. The test to determine whether Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 will apply to section 151 of the new regime is this : **if the time limit of three years from the end of an assessment year falls between March 20, 2020 and March 31, 2021, then the specified authority under section***

***151(i) has extended time till June 30, 2021 to grant approval**;*

(e) In the case of section 151 of the old regime, the test is : if the time limit of four years from the end of an assessment year falls between March 20, 2020 and March 31, 2021, then the specified authority under section 151(2) has extended time till March 31, 2021 to grant approval;

(f) The directions in Union of India v. Ashish Agarwal [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.] will extend to all the ninety thousand reassessment notices issued under the old regime during the period April 1, 2021 and June 30, 2021;

(g) The time during which the show-cause notices were deemed to be stayed is from the date of issuance of the deemed notice between April 1, 2021 and June 30, 2021 till the supply of relevant information and material by the Assessing Officers to the assessees in terms of the directions issued by this court in Union of India v. Ashish Agarwal [(2022) 444 ITR 1 (SC); (2023) 1 SCC 617.] , and the period of two weeks allowed to the assessees to respond to the show-cause notices; and

(h) The Assessing Officers were required to issue the reassessment notice under section 148 of the new regime within the time limit surviving under the Income-tax Act read with the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020. All notices issued beyond the surviving period are time barred and liable to be set aside;

6. Reading of the Return of Income filed for the Assessment Year 2013-14 and Assessment Order dated 09.12.2016 makes it clear that the information for the Assessment Year 2013-2014 has been relied by the Respondent from the information relevant for reopening the assessment for the Assessment Year 2014-2015.

7. The impugned notice pertains to the Assessment Year 2014-15 (Previous year 2013-14). The impugned notice, however, relies upon the Return of Income dated 05.09.2013 filed for the Assessment Year 2013-14 (Previous year 2012-13).

8. In fact, the impugned notice also states that "*Later on it was noticed from the copy of P&L account and balance sheet that the firm has inter-alia claimed expenditure towards bad debts written off to the extent of Rs. 1,19,16,875/- in the P&L account for the year ended 31-03-2013 under the head Operational Expenditure and the same was allowed by the A.O during the*

assessment. No details regarding the bad debts was furnished by the assessee during scrutiny.".

9. Thus, the information that has been relied upon by the Department / respondents for issuing the impugned notice under Section 148A(b) of the Income Tax Act, 1961 for the Assessment Year 2014-15 is based on the information for the Assessment Year 2013-14 (previous year 2012-13). Thus, there are no foundational fact available with the Department to issue the impugned notice or to pass the impugned order.

10. Even otherwise, the impugned proceedings initiated by the jurisdictional assessing officer was beyond the period of limitation and contrary to Section 149 of the Act as amended with effect from 01.04.2021. Show Cause Notice dated 23.05.2022 itself is not based on any information available with the Department for the Assessment Year 2014-15. The impugned proceedings are therefore liable to be quashed on this ground as well. Accordingly, they are quashed.

11. This Writ Petition thus stands allowed with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

03-11-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

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WP No. 13607 of 2022

To

1.Deputy Commissioner of Income Tax
Non-Corporate Circle 8(1),
Nungambakkam, Chennai-600 024.

C.SARAVANAN J.

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