IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2025

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THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.No.14882 of 2023
and
W.M.P.Nos.14451 and 14452 of 2023

Erode Gopinath Prasath ... Petitioner

-Vs-

1.Income Tax Officer,
Corporate Ward 3(2)
63, Race Corse Road
Coimbatore 641018.

2. Principal Commissioner of Income Tax
63, Race Corse Road,
Coimbatore – 641 018. ….Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari, to call for the records on the file of the respondents and quash the:

(i) the impugned notice no.1 issued by the first respondent issued under Section 148A(b) of the Income Tax Act, 1961 in PAN:APGPP7262J, DIN & Notice No.ITBA/AST/F/148_1/2022-23/1049969572(1) dated 21.02.2023 for the AY 2019-20.

(ii) Impugned order passed by the first respondent under Section 148A(d) of the Income Tax Act, 1961, ("Act") in PAN:APGPP7262J, DIN&Notice No.ITBA/AST/F/148A/2022-23/1051466768(1) dated 28.03.2023 for the Assessment Year ('AY')2019-20.

(iii) Impugned notice No.2 issued by the first respondent under section 148 of the Income Tax Act, 1961 in PAN:APGPP7262J, DIN:ITBa/AST/S/148_1/2022-23/1051473583(1) dated 28.03.2023 for the AY 2019-20.

For Petitioner : Mr.N.V.Narayanan

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

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ORDER

The petitioner is before this Court challenging the order dated 28.03.2023 passed under Section 148A(d) and consequential impugned Notice dated 28.03.2023 passed under Section 148 of the Income Tax Act, 1961. The impugned order and the impugned notice were preceded by a impugned notice dated 21.02.2023 issued under Section 148A(b) of the Act. The aforesaid impugned notice under Section 148A(b) was issued to the petitioner in the context of income allegedly escaping assessment with regard to the sale of an immovable property on 04.03.2019.

2. The case of the petitioner is that the petitioner has claimed exemption from payment of long-term capital gains tax under Section 54 of the Income Tax Act, 1961, as the entire sale consideration of Rs. 40 lakhs arising out of the sale of land was invested in the purchase of bonds issued by the Rural Electrification Corporation ("REC") and National Highway Authority of India ("NHAI") on 11.03.2019, which within 6 months from the date of transfer of such land and therefore claimed deduction under Section 54EC of the Act. It is further submitted that the capital gain accruing as a result of the said sale of land amounted only to Rs.34,16,368/-.

3. It is submitted that however, the respondent has initiated re-assessment proceedings passed the impugned order dated 28.03.2023 and notice under Section 148 of the Income Tax Act, 1961 by stating as follows:

> " Albeit having the LTCG for Rs.34,16,368/- during the financial year 2019-20, the assessee did not file the return of income. Hence, facts of this case is deemed to be a case of income/assests escaped the assessment. Having met all the parameters for initiating the proceedings under section 147 of the IT Act, 1961 including approval from specified authority as per

> section 151 of the Act, this is a fit case for issue of notice u/s 148 of the Income-Tax Act, 1961 for the assessment year 2016-17."

4. In the Counter Affidavit that has been filed, the respondent has drawn attention of this Court to the proviso to Section 139(1) of the Act. It is submitted that for claiming exemption under Section 54EC of the Act, the Return of Income must be filed under Section 139(1) of the Income Tax Act, 1961.

5. It is further submitted that the claim for exemption under Section 54EC of the Act cannot be countenanced if the Return of Income is not filed within the time prescribed under Section 139(1) of the Act.

6. The reasons stated in the Counter Affidavit are at variance with the submissions of the petitioner.

7. Be that as it may, the case is remitted back to the respondent to pass fresh orders under Section 148A(d) and Section 148A(d) Notice of the Income Tax Act, 1961. Meanwhile, it is open to the petitioner to file a Return of Income or to substantiate the reasons for not having filed the Return under Section 139 of the Act. The petitioner shall cooperate with the Respondent in the de novo proceedings.

8. The Writ Petition is disposed of with the above observation. No costs. Connected W.M.Ps are closed.

08.12.2025

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Neutral Citation : Yes/No
To
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