IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.16023 of 2022
and
W.M.P.Nos.15348 and 15349 of 2022 and W.M.P.No.27075 of 2022

M/s.Anand Cine Services Private Limited,
Represented by its Director ... Petitioner

Vs.

Assistant Commissioner of Income Tax,
Non-corporate Circle 10(1),
No.121, M.G.Road,
Nungambakkam,
Chennai – 600 034. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the entire records of the Respondent contained in its Notice bearing DIN and Letter No.ITBA/COM/F/17/2022-23/1043163456(1) issued under Section 148A(b) of the Income Tax Act, 1961 dated 25.05.2022 for PAN: AAPCA9907J for Assessment Year 2014-2015, and all proceedings in furtherance thereof, and to quash the same as arbitrary, unjust and illegal, and to consequently forbear the Respondent from in any manner reassessing the Petitioner's income under Section 147 of the Income Tax Act, 1961 for the Assessment Year 2014-15.

For Petitioner	:	Mr.Suhrith Parthasarathy
For Respondent	:	Mrs.S.Premalatha Senior Standing Counsel

ORDER

In this Writ Petition, the Petitioner has challenged the Notice dated 25.05.2022 issued by the 1st Respondent under Section 148A(b) of the Income Tax Act, 1961 (hereinafter referred to as "the Act") under the new regime as in force with effect from 01.04.2021 for the Assessment Year 2014-2015.

2. The impugned Section 148A(b) Notice dated 31.07.2022 was issued to the Petitioner under the new regime as in force with effect from 01.04.2021 in the light of the Judgment of the Hon'ble Supreme Court in **Union of India and others** Vs. **Ashish Agarwal**, (2023) 1 SCC 617 / 2022 SCC Online SC 543 on **04.05.2022** which decision stood clarified by the decision of the Hon'ble Supreme Court in **Union of India** Vs. **Rajeev Bansal**, 2024 SCC Online SC 2693 / [2024] taxmann.com 70.

3. The facts on record reveal that the impugned Section 148A(b) Notice dated 31.07.2022 was issued in the name of the Petitioner after the Petitioner's Company took over the business of M/s.Anand Cine Services Private Limited, a Partnership Firm.

4. It is noticed that the Firm had earlier filed its Return of Income on 28.11.2014 for the Assessment Year 2014-2015. Subsequently, the case was selected for scrutiny. An Assessment Order dated 27.12.2016 came to be passed under Section 143(3) of the Act for the said Assessment Year 2014-2015 in the name of the said Firm. The business of the said Firm was taken over by the Petitioner after its incorporation with effect from 11.08.2017.

5. It is in this background, Section 148 Notice dated 30.06.2021 was issued under the old regime of the Act as in force till 31.03.2021 in the name of the Petitioner Company which took over the business of M/s.Anand Cine Services Private Limited.

6. The Petitioner had participated in the aforesaid re-assessment proceedings initiated under Section 148 of the Act under the old regime. It

ultimately culminated in an Assessment Order dated 28.03.2022 passed under Section 147 of the Act for the Assessment Year 2014-2015.

7. Meanwhile, the Hon'ble Supreme Court delivered its Judgment in **Ashish Agarwal case** (cited *supra*), which later clarified by the decision of the Hon'ble Supreme Court in **Rajeev Bansal case** (cited *supra*).

8. It is in this background, a fresh Re-assessment Notice dated 25.05.2022 under Section 148A(b) of the Act under the new regime was issued to the Petitioner for the Assessment Year 2014-2015 in the light of the aforesaid decisions of the Hon'ble Supreme Court.

9. The learned counsel for the Petitioner would rely on the decisions of this Court in the following two cases:-

i. **Vellore Institute of Technology, Represented by its Chairman and Managing Trustee** Vs. **Assistant Commissioner of Income Tax (Exemptions), Chennai** in W.P.No.22385 of 2022 vide Order dated 30.06.2023.

ii. **M/s.Merton** Vs. **The Deputy Commissioner of Income Tax, Chennai and another** in W.P.No.26782 of 2022 vide Order dated 22.01.2025.

10. It is submitted by the learned counsel for the Petitioner that having passed an order based on the Return of Income that was filed on 28.11.2024 which ultimately culminated in the Assessment Order dated 28.03.2022 under Section 147 read with Section 144 of the Act for the Assessment Year 2014-2015, it is not open for the Department to reopen the issue under Section 148 of the Act under the new regime.

11. In this connection, the learned counsel for the Petitioner would draw attention to the decision of this Court in **M/s.Merton** Vs. **The Deputy Commissioner of Income Tax, Chennai and another** in W.P.No.26782 of 2022 vide Order dated 22.01.2025.

12. On the other hand, the learned Senior Standing Counsel for the Respondent would submit that the Assessment Order dated 28.03.2022 passed under Section 147 read with Section 144 of the Act for the Assessment Year 2014-2015 was in response to Section 148 Notice issued under the old regime in the name of M/s.Anand Cine Services Private Limited.

13. It is further submitted by the learned Senior Standing Counsel for the Respondent that Section 148 Notice was issued strictly in accordance with the directions of the Hon'ble Supreme Court in **Ashish Agarwal case** (cited *supra*) which later clarified by the decision of the Hon'ble Supreme Court in **Rajeev Bansal case** (cited *supra*).

14. It is also submitted by the learned Senior Standing Counsel for the Respondent that the Petitioner ought to file a reply to the impugned Section 148A(b) Notice dated 31.07.2022 and therefore, this Writ Petition is premature and is liable to be dismissed.

15. I have considered the submissions made by the learned counsel for the Petitioner and the learned Senior Standing Counsel for the Respondent.

16. It must be observed that once the re-assessment proceedings initiated with issuance of Section 148 Notice under the old regime as in force till **30.06.2021** has already been completed on the earlier set of facts with the issuance of an Assessment Order dated **28.03.2022** under Section 147 of the

Act based on the earlier set of facts, the Department cannot reopen the assessment on the basis of the decision of the Hon'ble Supreme court in **Ashish Agarwal case** (cited *supra*).

17. The principle laid down in **Ashish Agarwal case** (cited *supra*) and **Rajeev Bansal case** (cited *supra*) applies only in cases where the assessment was yet to be completed and no Assessment or Re-Assessment Order had been passed earlier. Only in such cases, a fresh Notice under Section 148A(b) of the Act under the new regime as in force with effect from 01.04.2021 could be validly issued.

18. Even if the defense of the Petitioner is a technical defense based on the decisions of the Hon'ble Supreme Court in **Ashish Agarwal case** (cited *supra*) and **Rajeev Bansal case** (cited *supra*), the facts remains that the Return of Income filed by the Petitioner on 28.11.2014 was already the subject matter of an Assessment Order dated 28.03.2022 for the Assessment Year 2014-2015. Such an assessment cannot be recalled by issuance of a fresh Notice under Section 148A(b) of the Act.

19. This is the view taken by this Court in **M/s.Merton** Vs. **The Deputy Commissioner of Income Tax, Chennai and another** in W.P.No.26782 of 2022 vide Order dated 22.01.2025, wherein it was held as under:-

"12. The issue was examined by the Assessing Officer which has culminated in an Assessment Order dated 30.03.2022. The decision of the Hon'ble Supreme Court in Ashish Agarwal's case (cited supra), has summarized the position as under:-

"28. 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:

28.1. 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.

28.2. 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.

28.3. 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.

28.4. 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).

28.5. 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.

29. The present order shall be applicable PAN INDIA and all judgments and orders passed by the different High Courts on the issue and under which similar notices which were issued after 1-4-2021 issued under Section 148 of the Act are set aside and shall be governed by the present order and shall stand modified to the aforesaid extent. The present order is passed in exercise of powers under Article 142 of the Constitution of India so as to avoid any further appeals by the Revenue on the very issue by challenging similar judgments and orders, with a view not to burden this Court with approximately 9000 appeals. We also observe that the present order shall also govern the pending writ petitions, pending before various the High Courts in which similar notices under Section 148 of the Act issued after 1-4-2021 are under challenge.

30. The impugned common judgments and orders [Ashok Kumar Agarwal v. Union of India, 2021 SCC OnLine All 799] passed by the High Court of Allahabad and the similar judgments and orders passed by various High Courts, more particularly, the respective judgments and orders passed by the various High Courts particulars of which are mentioned hereinabove, shall stand modified/substituted to the aforesaid extent only.

31. All these appeals are accordingly partly allowed to the aforesaid extent. In the facts of the case, there shall be no order as to costs.""

20. Therefore, the impugned Section 148A(b) Notice dated 25.05.2022 issued under the new regime as in force with effect from 01.04.2021 cannot be issued by the Respondent. It cannot be issued without any valid grounds for reassessment.

21. Therefore, this Writ Petition deserves to be allowed and is accordingly allowed. No costs. Connected Writ Miscellaneous Petitions are closed.

04.11.2025
(1/2)

Neutral Citation : Yes / No

kak / arb

To:

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Non-corporate Circle 10(1),
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C.SARAVANAN, J.

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