IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.19216 of 2021
and
W.M.P.No.20515 of 2021

M/s.Sri Velaudhaswamy Spinning Mills Private Limited,
Represented by its Director,
Mr.P.S.Veluswamy,
No.207/86, Mangalam Road, Karuvampalayam,
Tirupur, Tamil Nadu 641 601. .. Petitioner(s)

Vs.

The Joint Commissioner of Income Tax,
Circle – 1, TPR,
No.121, Adams Building,
Sixty Feet Road, Tirupur,
Tamil Nadu 641 602. .. Respondent(s)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records on the file of the Respondent in PAN No.AADCS0676C and quash the impugned notice under Section 148 of the Income Tax Act, 1961 in ITBA/AST/S/148/2020-21/1031857178(1) dated 28.03.2021 and the consequential proceedings in ITBA/AST/F/17/2021-22/1034499722 dated 29.07.2021 passed by the respondent as illegal and without jurisdiction.

For Petitioner(s) : Mr.R.Sivaraman

For Respondents(s) : Dr.B.Ramaswamy
Senior Standing Counsel

ORDER

The present writ petition is filed challenging the notice dated 28.03.2021 and consequential proceedings dated 29.07.2021.

2. It is submitted by both learned counsel for petitioner and respondent in unison that the issue that arises for consideration in this writ petition stands covered by the order of this Court in W.P.No.19223 of 2021 dated 24.01.2025. The operative portion of the order in W.P.No.19223 of 2021 dated 24.01.2025 reads as under:

> *"10. This Court is of the view that the exercise in the impugned notice dated 28.03.2021 issued under Section 143 of the Income Tax Act and the consequential speaking order dated 29.07.2021 which is impugned in the present are unsustainable primarily because the petitioner has made adequate declarations not only in the returns filed by the petitioner on 29.09.2013 which*

accompanied the balance sheet, profit and loss account. They were submitted to the Assessing Officer before the assessment order was passed under Section 143(3) on 29.06.2015. Even though the assessment order dated 29.06.2015 has not discussed all the points that were raised before the assessment was completed, the information obtained by the petitioner under RTI which was narrated above and indicates that the assessing officer formed an opinion regarding the interest free loans to group company. Thus, was true and full disclosure of all intimation by the petitioner along with the return filed by the petitioner on 29.07.2021.

11. The information available on file particularly the information secured by the petitioner under RTI clearly indicates that the invocation of Section 148 read with Section 147 of the Income Tax Act was unwarranted. The officer has also justified the conclusion arrived in the assessment order dated 29.06.2015 in his response to audit objection. Unless there was a failure on the part of the petitioner to fully and truly disclosure all material facts necessary for completing the assessment, the invocation of the machinery under Section 148 read with 147 was not available. Thus, the impugned notice and speaking order are liable to be quashed..

12. Therefore, this Writ Petition is allowed...."

3. In view of the above submission, the writ petition stands disposed of in terms of W.P.No.19223 of 2021, dated 24.01.2025. No Costs. Consequently, connected miscellaneous petition is closed.

17.04.2025

Speaking (or) Non Speaking Order
Index:Yes/No
Neutral Citation: Yes/No
spp

To:

The Joint Commissioner of Income Tax,
Circle – 1, TPR,
No.121, Adams Building,
Sixty Feet Road, Tirupur,
Tamil Nadu 641 602.

MOHAMMED SHAFFIQ, J.

spp

W.P. No.19216 of 2021

17.04.2025