W.P.No.19316 of 2022

C.SARAVANAN, J.

Today, this writ petition is listed under the caption, "For Being Mentioned" at the instance of the learned Standing Counsel for the Respondents.

2. The learned Standing Counsel for the Respondents submitted that the order impugned in this writ petition is an order dated 31.03.2022 passed under Section 148A(d) of the Income Tax Act, 1961 and the said order is not an Assessment Order. However, in the prayer sought in this writ petition, the impugned order has been wrongly mentioned as "impugned Assessment Order", as a result of which, in Paragraph Nos.2, 3, 4, 5 & 6 of the order dated 07.01.2025 in W.P.No.19316 of 2022, the impugned order has been mentioned as "Assessment Order" by this Court. Therefore, it is prayed that the words, "Assessment Order" in Paragraph Nos.2, 3, 4, 5 & 6 of the order dated 07.01.2025 in W.P.No.19316 of 2022 may be substituted with the words "order under Section 148A(d) of the Income Tax Act, 1961".

3. Considering the above submissions made by the learned Standing Counsel for the Respondents, this Court is inclined to substitute the words, "Assessment Order" in Paragraph Nos.2, 3, 4, 5 & 6 of the order dated 07.01.2025 in W.P.No.19316 of 2022 with the words "order under Section 148A(d) of the Income Tax Act, 1961". Accordingly, the said words are substituted and Paragraph Nos.2, 3, 4, 5 & 6 of the order dated 07.01.2025 in W.P.No.19316 of 2022 reads as follows:

> *"2. The present writ petition has been filed by the petitioner challenging the order under Section 148A(d) of the Income Tax Act, 1961 dated 31.03.2022 bearing Notice No.ITBA/AST/4/148A/2021-22/1042242763(1) passed by the 2nd respondent.*
>
> *3. Prior to the passing of impugned order under Section 148A(d) of the Income Tax Act, 1961 dated 31.03.2022, the petitioner was issued with a Show Cause Notice dated 25.03.2022 bearing Notice No.ITBA/AST/F/148A(SCN)/2021-22/1041531966(1) under 148A(b) of the Income Tax Act, 1961 by the 2nd respondent. In response to the said Show Cause Notice, the petitioner filed its Reply on 26.03.2022, despite which, the 2nd respondent has passed the impugned order under Section 148A(d) of the Income Tax Act, 1961.*

4. Operative portion of the impugned order under Section 148A(d) of the Income Tax Act, 1961 dated 31.03.2022 reads as under:

> *"3. In response to the said notice u/s. 148A(b), the assessee filed a reply on 26.03.2022. The assessee submitted details of 26AS statement and financials of the company for the relevant period. However, the assessee states*
>
> *"We have not made any fictitious purchases and bogus billing, if you can please provide us the list of fictitious purchases and bogus billing details, it will help us to justify the same with our supporting documents."*
>
> *I have considered the reply of the assessee and the same is not acceptable for insufficient submissions.*
>
> *After considering the material available on record and the reply of the assessee, I am satisfied that it is a fit case for issue of notice u/s. 148 of the Income Tax Act. This order is passed with the prior approval of PCIT-4, Chennai."*

5. A reading of the impugned order under Section 148A(d) of the Income Tax Act, 1961 clearly indicates that the same has been passed by the 2nd respondent without any application of mind. There is a manifest violation of the principles of natural justice. Hence, the impugned order under Section 148A(d) of the Income Tax Act, 1961 is liable to be quashed for want of reason.

6. Accordingly, the impugned order under Section 148A(d) of the Income Tax Act, 1961 dated 31.03.2022 bearing Notice No.ITBA/AST/4/148A/2021-22/1042242763(1) passed by the 2nd respondent is quashed and the matter is *remanded back to the 2nd respondent for fresh consideration. The 2nd respondent is directed to reconsider the matter and pass orders afresh, within a period of three months from the date of receipt of a copy of this order, after affording due opportunity of hearing to the petitioner/assessee."*

4. In all other aspects, the order dated 07.01.2025 in W.P.No.19316 of 2022 passed by this Court shall remain unaltered. Registry is directed to issue a fresh order to all concerned, after carrying out the aforesaid corrections.

30.04.2025

mrr

C.SARAVANAN, J.

mrr

W.P.No.19316 of 2022

30.04.2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.01.2025

Coram:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.19316 of 2022
and W.M.P.Nos.18578 & 18580 of 2022

M/s.Oswal Minerals Ltd.,
Rep. by its Director
Mohanlal Bharath Kumar Jain,
8/11, Police Station Road,
Pallavaram,
Chennai – 600 043.

...Petitioner

Versus

1.Principal Commissioner of Income Tax-1,
Chennai – 4,
No.121, Mahatma Gandhi Road,
Nungambakkam,
Chennai – 600 034.

2.Assistant Commissioner of Income tax,
Circle – 1, LTU, Chennai,
No.121, Mahatma Gandhi Road,
Nungambakkam,
Chennai – 600 034.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records in the impugned Assessment Order under Section 148A(d) in Notice No.ITBA/AST/4/148A/2021-22/1042242763(1) dated 31.03.2022 for Assessment Year 2018-19 passed by the 2nd respondent and quash the same.

For Petitioner	:	Mr.G.Asokapathy for M/s.PASS ASSOCIATES
For Respondents	:	Mr.S.Rajasekar, Standing Counsel

ORDER

Heard Mr.G.Asokapathy, learned counsel for the petitioner and Mr.S.Rajasekar, learned Standing Counsel for the respondents.

2. The present writ petition has been filed by the petitioner challenging the Assessment Order dated 31.03.2022 bearing Notice No.ITBA/AST/4/148A/2021-22/1042242763(1) passed by the 2nd respondent.

3. Prior to the passing of impugned Assessment Order dated 31.03.2022, the petitioner was issued with a Show Cause Notice dated 25.03.2022 bearing Notice No.ITBA/AST/F/148A(SCN)/2021-22/1041531966(1) under 148A(b) of the Income Tax Act, 1961 by the 2nd

respondent. In response to the said Show Cause Notice, the petitioner filed its Reply on 26.03.2022, despite which, the 2nd respondent has passed the impugned Assessment Order.

4. Operative portion of the impugned Assessment Order dated 31.03.2022 reads as under:

> *"3. In response to the said notice u/s. 148A(b), the assessee filed a reply on 26.03.2022. The assessee submitted details of 26AS statement and financials of the company for the relevant period. However, the assessee states*
>
> *"We have not made any fictitious purchases and bogus billing, if you can please provide us the list of fictitious purchases and bogus billing details, it will help us to justify the same with our supporting documents."*
>
> *I have considered the reply of the assessee and the same is not acceptable for insufficient submissions.*
>
> *After considering the material available on record and the reply of the assessee, I am satisfied that it is a fit case for issue of notice u/s. 148 of the Income Tax Act. This order is passed with the prior approval of PCIT-4, Chennai."*

5. A reading of the impugned Assessment Order clearly indicates that the same has been passed by the 2nd respondent without any application of mind. There is a manifest violation of the principles of natural justice. Hence, the impugned Assessment Order is liable to be quashed for want of reason.

6. Accordingly, the impugned Assessment Order dated 31.03.2022 bearing Notice No.ITBA/AST/4/148A/2021-22/1042242763(1) passed by the 2nd respondent is quashed and the matter is remanded back to the 2nd respondent for fresh consideration. The 2nd respondent is directed to reconsider the matter and pass orders afresh, within a period of three months from the date of receipt of a copy of this order, after affording due opportunity of hearing to the petitioner/assessee.

7. This Writ Petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

07.01.2025

mrr

Index : Yes/No

Speaking Order (or) Non-Speaking Order

To

1.The Principal Commissioner of Income Tax-1,
Chennai – 4,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai – 600 034.

2.The Assistant Commissioner of Income tax,
Circle – 1, LTU, Chennai,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai – 600 034.

C.SARAVANAN, J.

mrr

W.P.No.19316 of 2022

07.01.2025