IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.04.2025

PRONOUNCED ON : 01.08.2025

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. Nos.20260, 20268, 20264, 20272 and 20275 of 2023
and
W.M.P. Nos.19595, 19611, 19591, 19607, 19616, 19618, 19589, 19601, 19603 and 19596 of 2023

Madurai Srinivasagam Sunther,
No.61, 2nd Street,
Thanthai Periyar Nagar, Aynavaram,
Chennai 600 023. ... Petitioner in all W.P.'s

Vs.

1. Deputy Commissioner of Income Tax,
   Central Circle 3(3),
   3rd Floor, Investigation Building,
   No.46 (Old No.108)
   M.G.Road, Chennai 600 034.

2. Deputy Commissioner of Income Tax,
   Central Circle 3(4),
   3rd Floor, Investigation Building,
   No.46 (Old No.108)
   M.G.Road, Chennai 600 034. ... Respondents in all W.P.'s

PRAYER in W.P.No.20260 of 2023: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records contained in notice dated 08.03.2022 bearing ITBA/AST/S/153C/2021-22/1040482290(1) for assessment year 2016-17 issued by the 1st respondent under Section 153C of the Income Tax Act, 1961, and to quash the same.

PRAYER in W.P.No.20264 of 2023: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records contained in notice dated 08.03.2022 bearing ITBA/AST/S/153C/2021-22/1040482291(1) for assessment year 2017-18 issued by the 1st respondent under Section 153C of the Income Tax Act, 1961, and to quash the same.

PRAYER in W.P.No.20268 of 2023: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records contained in notice dated 08.03.2022 bearing ITBA/AST/S/153C/2021-22/1040482294(1) for assessment year 2018-19 issued by the 1st respondent under Section 153C of the Income Tax Act, 1961, and to quash the same.

PRAYER in W.P.No.20272 of 2023: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records contained in notice dated 08.03.2022 bearing ITBA/AST/S/153C/2021-22/1040482302(1) for assessment year 2019-20 issued by the 1st respondent under Section 153C of the Income Tax Act, 1961, and to quash the same.

PRAYER in W.P.No.20275 of 2023: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records contained in notice dated 08.03.2022 bearing ITBA/AST/S/153C/2021-22/1040482307(1) for assessment year 2020-21 issued by the 1st respondent under Section 153C of the Income Tax Act, 1961, and to quash the same.

For Petitioner in W.P.No.20260 of 2023	: Mr.M.Velmurugan
in W.P.Nos.20264 and 20272 of 2023	: Mr.S.Saravanakumaran
in W.P.No.20268 of 2023	: Mr.Ajay Vohra Senior Advocate for Mr.M.Velmurugan

in W.P.No.20275 of 2023	:	Mr.P.H.Aravind Pandian Senior Advocate for Mr.M.Velmurugan
For Respondents in all W.P.'s	:	Mr.A.P.Srinivas Senior Standing Counsel assisted by Mr.ANR.Jayaprathap Junior Standing Counsel

COMMON ORDER

These writ petitions are filed challenging the notices issued under Section 153 C of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for the Assessment Years 2016-17, 2017-18, 2018-19, 2019-20 and 2020-21. The issue that arises in all these writ petitions are common and thus disposed of by a common order.

2. Brief Facts:

2.1. It is submitted that petitioner is engaged in diverse business activities, including car dealership, consultancy services for mining companies such as Thriveni Earth Movers Pvt. Ltd., Thriveni Logistics Services LLP, and Gem Ultra Pvt. Ltd., as well as operating a poultry feed mill project bearing PAN: ASPPS0488R. Petitioner has been regularly filing returns of income. Petitioner was served with summons under Section 131 of the Act, to appear before respondent Department, Chennai, on 02.03.2021, in connection with a search conducted on 10.11.2020 in the case of M/s Mohanlal Jewellers Pvt. Ltd. (hereinafter referred to as "Mohanlal Jewellers").

2.2. Petitioner was questioned regarding his acquaintance with one Mr. Suresh Kumar Khatri of Mohanlal Jewellers and confronted with certain ledgers of high-value cash transactions recorded in a software "J-Pack", said to have been maintained by an employee of Mohanlal Jewellers, viz., Mr. Rajendra Kothari. Based on Mr. Kothari's statement, the said ledger and its entries were attributed to the petitioner. Petitioner, denied the same and submitted that he had no business relationship with either Mr. Suresh Kumar Khatri or Mohanlal Jewellers.

2.3. On 08.03.2022, petitioner received notices under Section 153C of the Act, calling upon him to file revised returns of income for Assessment Years 2015–16 to 2020–21. The notices did not furnish any material particulars justifying the invocation of Section 153C of the Act.

2.4. In response, petitioner re-filed returns on 22.03.2022, contending that there was neither concealment of income nor furnishing of inaccurate particulars in the original returns filed. Thereafter, a notice under Section 143(2) of the Act dated 27.06.2022 was issued, followed by a notice under Section 142(1) dated

30.11.2022 seeking details regarding petitioner's income and his alleged connection with Mohanlal Jewellers and Mr. Khatri.

2.5. Petitioner would submit that requisite details were furnished on 16.12.2022 and categorically denied the existence of any business nexus with Mohanlal Jewellers. Notwithstanding such denial, 2nd respondent issued summons to appear on 11.03.2023, and recorded a sworn statement insisting on the same line of questioning.

2.6. On 14.03.2023, 2nd respondent issued a show cause notice, alleging cash payments of Rs.10,39,63,600/- reflected in the ledgers said to have been extracted from "J-Pack" pertains to petitioner. Petitioner vide reply dated 20.03.2023 and 26.03.2023, denied the allegation and reiterated that no business transactions existed with Mohanlal Jewellers. Petitioner further sought (i) copies of the relevant seized materials, and (ii) an opportunity to cross-examine both Mr. Rajendra Kothari and Mr. Suresh Kumar Khatri. As the said requests were not acceded to, petitioner filed W.P.No.9263 of 2023 before this Court seeking a writ of mandamus. By order dated 29.03.2023, this Court directed the respondents to furnish the statements sought and grant opportunity to cross-examine Mr.Rajendra Kothari and Mr.Suresh Khatri and directed completion of assessment thereafter, on or before 31.05.2023.

2.7. Aggrieved, respondents preferred Writ Appeals in W.A.Nos. 1040 to 1045 of 2023. By order dated 04.05.2023, Division Bench granted an interim stay of the order dated 29.03.2023 of the learned Single Judge, while recording an undertaking of the learned Additional Solicitor General of India that the assessment would not be proceeded with.

3. Case of the Petitioner:

3.1. That under Section 153C(1), Respondent could assume jurisdiction only if books of account or documents seized during the search either pertain to the Petitioner or contain information relating to him. In the present case, none of the seized documents from the search of Mohanlal Jewellers either belong to the Petitioner or bear any relation to him. The petitioner's name is not mentioned anywhere, and no nexus is shown to exist between petitioner and materials serized. Hence, invocation of Section 153C is wholly without basis.

3.2. Issuance of notice under Section 153C of the Act is wholly based on the statement of Mr.Rajendra Kothari, an employee unknown to the petitioner, who in a statement dated 30.11.2020, alleged that certain ledgers in the accounting system of Mohanlal Jewellers belong to the petitioner. Such unsubstantiated statement, recorded under Section 131 of the Act, cannot enable invoking Section 153C of the Act.

3.3. Notice is not based on incriminating material discovered during search on 10.11.2020, instead, it is based on a statement made by Mr.Rajendra Kothari on 30.11.2020, which cannot form the basis for issuance of notice under Section 153C of the Act.

3.4. Despite petitioner's sworn statement dated 02.03.2021, categorically denying any transactions with Mohanlal Jewellers, respondent chose to rely solely on Mr.Rajendra Kothari’s statement while ignoring petitioner’s statement. This demonstrates complete non-application of mind.

3.5. That while the Department accepted Mr.Rajendra Kothari's statement, it deliberately refrained from questioning Mr. Suresh Khatri, who allegedly supervised Mr.Rajendra Kothari, regarding the ledgers, though his sworn statement was also available.

3.6. Mr.Rajendra Kothari’s statement itself is suspicious. He did not identify any particular entry linking the ledgers to the Petitioner, but nevertheless referred to the Petitioner by his full PAN-style name, rather than the initials ordinarily used by the petitioner, which raises doubts about its genuineness.

3.7. Impugned Notice is also assailed on the ground that it is founded upon a common Satisfaction Note dated 08.03.2022 covering multiple assessment years (AY 2015-16 to AY 2021-22). Such a common satisfaction note is impermissible; independent satisfaction notes are required for each year.

3.8. Satisfaction Note itself is arbitrary and erroneous. While Mr. Kothari's statement referred only to four ledgers, Satisfaction Note records five, including one ledger ("KARTI S") not mentioned in the statement. This discrepancy demonstrates non application of mind on the part of respondent authorities. Satisfaction Note does not disclose satisfaction of the assessing officer that the seized material has a bearing on the determination of Petitioner's income.

3.9. Power under Section 153C of the Act, cannot be exercised in a casual or on conjecture, but only on the basis of cogent and tangible material. Further, it was submitted that only statements recorded under Section 132(4) of the Act, may form the basis of action under Section 153C of the Act, whereas in the present case, Department relies solely on a statement recorded under Section 131 of the Act, which cannot by itself enable exercise of power under Section 153 of the Act. Statutory presumption under Section 132(4A) of the Act, applies only to the person searched, namely Mohanlal Jewellers, and cannot be extended to implicate third parties such as the petitioner.

3.10. In support of the above submissions, the following judgments were relied upon:

i) PCIT v. Abhisar Buildwell, reported in (2024) 2 SCC 433.

ii) CIT-III, Pune v. Sinhgad Technical Education Society, reported in (2017) 84 Taxmann.com 290.

iii) CIT v. Lavanya Land Pvt. Ltd., reported in 2017 SCC OnLine Bom 10169.

iv) PCIT v. Himanshu Chandulal Patel, reported in 2019 SCC OnLine Guj 2899,

v) Hemant Traders v. ITO, reported in 2015 SCC OnLine Bom 4244.

vi) PCIT v. Vinita Chaurasia, reported in 2017 SCC OnLine Del 8410.

4. Case of the Respondents:

4.1. The respondents would submit as a preliminary objection that the writ petition ought not be entertained at the stage of show cause notice, since examination of question of facts are involved.

4.2. Respondents submit that proceedings under Section 153C of the Act, were validly initiated on the basis of 'J Pack' data contained in the desktop PC and pen drives seized vide Annexure ANN/VD/RK/ED/S and ANN/PV/RK/ED/S respectively, during the course of search conducted under Section 132 of the Act. In terms of Section 2(22AA) of the Act, the expression "document" includes electronic record as defined in Section 2(1)(t) of the Information Technology Act, 2000. 'J Pack' data so seized forming the basis of satisfaction, as reflected in the Satisfaction Notes constitute incriminating material.

4.3. Statements of Mr. Rajendra Kothari were relied upon only for the limited purpose of corroborating electronic data found in the aforesaid devices. Notice under Section 153C of the Act, dated 08.03.2022 was therefore issued on the strength of incriminating materials unearthed during the search under Section 132 of the Act.

4.4. Sworn statement of Mr. Rajendra Kothari, was only to identify the individuals to whom the ledgers in the 'J Pack' software pertained. The satisfaction note was prepared on the basis of transactions reflected in the 'J Pack' ledgers, which recorded date-wise cash dealings. A thorough investigation was carried out prior to recording the satisfaction.

4.5. Respondents contend that seized electronic devices contained 'J Pack' ledgers titled “SD,” “Blue (Karti S),” “Karti S (RTG),” “TSD,” and “Karti S,” all of which pertain to the petitioner. It is submitted that entries were made by Mr.Rajendra Kothari, at the directions of Mr.Suresh Khatri, and that Mr.Rajendra Kothari, in his sworn statement dated 30.11.2020, confirmed that the ledgers “SD,” “Blue (Karti S),” “Karti S (RTG),” and “TSD” related to Shri Madurai Srinivasagam Sunther, petitioner herein. The said statement was recorded after analysis of the seized data. Thus, upon corroboration and confirmation of the entries, notice under Section 153C of the Act was issued to the petitioner.

4.6. Assessing Officer was satisfied that the data contained in the ledgers related to the petitioner. Based on the incriminating material seized vide Annexure ANN/VD/RK/ED/S and ANN/PV/RK/ED/S in the course of the search in the case of M/s. Mohanlal Jewellers Pvt. Ltd., a satisfaction note was duly recorded on 08.03.2022. Though the Assessing Officer of the searched person and "other person" (i.e., the petitioner) was the same, two distinct satisfaction notes were prepared—one in his capacity as the Assessing Officer of the searched person and another as the Assessing Officer of the "other person." Both notes were recorded on 08.03.2022 for six assessment years, and notices under Section 153C of the Act were issued for AYs 2015–16 to 2020–21. The satisfaction note sets out assessment-year-wise details, and is available for all six years.

5. Heard both sides and perusded the materials on record.

6. Before proceeding further it may be necessary to examine the preliminary issue as to whether the writ petition ought to be entertained at this

stage i.e., Show Cause Notice (or) should the petitioner be directed to file its response to the Show Cause Notice.

6.1. While considering the above question, it is necessary to bear in mind that Courts would be loathe in interfering with Show Cause Notice. In this regard it may be relevant to refer to the following judgments:

i) Union of India v. Hindalco Industries, reported in (2003) 5 SCC 194:

> *"12. There can be no doubt that in matters of taxation, it is inappropriate for the High Court to interfere in exercise of jurisdiction under Article 226 of the Constitution either at the stage of the show~cause notice or at the stage of assessment where alternative remedy by way of filing a reply or appeal."*

ii) State of U.P. v. Anil Kumar Ramesh Chandra Glass Works, reported in (2005) 11 SCC 451 :

> *"6. In any event, this Court had repeatedly held that Article 226 should not be permitted to be invoked in order to challenge show~cause notices."*

iii) Union of India v. Kunisetty Satyanarayana, reported in (2006) 12 SCC 28 :

> *"15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show~cause notice or charge~sheet."*

iv) Special Director v. Mohd. Ghulam Ghouse, reported in (2004) 3 SCC 440 :

> *"5.This Court in a large number of cases has deprecated the practice of the High Courts entertaining writ petitions questioning legality of the show~cause notices stalling enquiries as proposed and retarding investigative process to find actual facts with the participation and in the presence of the parties. Unless the High Court is satisfied that the show~cause notice was totally non est in the eye of the law for absolute want of jurisdiction of the authority*

to even investigate into facts, writ petitions should not be entertained for the mere asking and as a matter of routine, and the writ petitioner should invariably be directed to respond to the show~cause notice and take all stands highlighted in the writ petition. Whether the show~cause notice was founded on any legal premises, is a jurisdictional issue which can even be urged by the recipient of the notice and such issues also can be adjudicated by the authority issuing the very notice initially, before the aggrieved could approach the court."

7. It may be relevant to refer to the judgment of the Hon-ble Supreme Court in the case of CIT v. Vijaybhai N. Chandrani, reported in (2013) 14 SCC 661, wherein while dealing with the challenge to the high court rejecting the writ petition filed against the show cause notice it was observed as under:

"14.In the present case, the assessee has invoked the writ jurisdiction of the High Court at the first instance without first exhausting the alternate remedies provided under the Act. In our considered opinion, at the said stage of proceedings, the High Court ought not have entertained the writ petition and instead should have directed the assessee to file reply to the said notices and upon receipt of a decision from the assessing authority, if for any reason it is aggrieved by the said decision, to question the same before the forum provided under the Act."

8. This Court would only agree that the writ petition ought not be entertained at the stage of show cause notice inasmuch interalia the following questions of fact requires examination viz.,

a) Whether the "J Pack" data seized during the course of search constitute incriminating material.

b) Whether the statement of Mr.Rajendra Kothari is meant for the purpose of corraborating data in the 'J Pack' software or the notices issued soley on the strength of the statement of Mr.Rajendra Kothari.

c) Whether sworn statement of Mr. Rajendra Kothari, was only to identify the individuals to whom the ledgers in the 'J Pack' software pertained. The satisfaction note was prepared on the basis of transactions reflected in the 'J Pack' ledgers, which recorded date-wise cash dealings.

d) Whether any of the documents or books of account seized during the search of Mohanlal Jewellers actually pertain to or relate to the petitioner.

e) Whether the Petitioner’s name, initials, or identifying details are found in the seized material.

f) Whether the ledgers referred to by Mr. Rajendra Kothari genuinely belong to or concern the Petitioner.

g) Whether the use of the Petitioner’s full PAN-style name in Mr. Kothari’s statement indicates manipulation or external influence.

h) Whether the Satisfaction Note dated 08.03.2022 correctly records what was stated in Mr. Kothari’s sworn statement, or whether it includes ledgers never mentioned by him.

i) Whether the seized material, if any, has any factual connection with the income or transactions of the Petitioner.

9. In view thereof, the writ petitions stands disposed of with liberty to the petitioner to file their objections to the notice within a period of 4 weeks from the date of receipt of a copy of this order. If any such objections/ reply is filed by the petitioner needless to say the Respondents shall consider the same in accordance with law and after affording the petitioner a reasonable opportunity of hearing and thereafter proceed with assessment/ adjudication process keeping in view that this Court has not expressed any view of merits. It is made clear that the above observations are made only for the purpose of deciding whether the writ petition ought to be entertained at this stage and does not reflect any opinion of this Court, nor has any issue been decided on merits. The adjudication Authority shall decide the matter independently uninfluenced/unfettered by any observations made herein. No costs. Consequently, the connected miscellaneous petitions are closed.

01.08.2025

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

To:

1. Deputy Commissioner of Income Tax,

Central Circle 3(3),
3rd Floor, Investigation Building,
No.46 (Old No.108)
M.G.Road, Chennai 6000 034.

2. Deputy Commissioner of Income Tax,
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MOHAMMED SHAFFIQ, J.

spp/mka

W.P. Nos.20260, 20268, 20264, 20272 and 20275 of 2023

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