IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-06-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 22689 of 2025
AND
WP NO. 22703 OF 2025,WP NO. 22699 OF 2025,WMP NO. 25526 OF 2025,WMP NO. 25527 OF 2025,WMP NO. 25537 OF 2025,WMP NO. 25540 OF 2025,WMP NO. 25541 OF 2025,WMP NO. 25543 OF 2025,WMP NO. 25544 OF 2025,WMP NO. 25546 OF 2025,WMP NO. 25548 OF 2025,WP NO. 22711 OF 2025,WP NO. 22707 OF 2025,WMP NO. 25535 OF 2025

Narendra Kumar Bothra
S/o. (Late) D.C.Bothra,
No.20/1, Manikeshwari Road,
Kilpauk, Chennai - 600 010.

Petitioner in all W.Ps

Vs

1. The Assistant Commissioner Of Income Tax
Central Circle-2(3) Chennai
Room No. Investigation Building,
No.46, (old No.108)
Mahatma Gandhi Road,
Chennai, Tamil Nadu-600 034.

2.The Director General of Income Tax
(Investigation)
Chennai New Building,
2nd Floor, New No 46, Old No 108,
M G Road, Nungambakkam,
Chennai – 600 034.

Respondent in all W.Ps

PRAYER in WP No. 22689 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, calling for the records on the file of the Respondent in DIN and Notice No. ITBA/AST/S/ 148/2024-25/ 1075116477(1) dated 27.03.2025 for the Assessment Year 2019-20 and to quash the notice u/s.148 issued by the 1st Respondent.

PRAYER in WP No. 22703 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, calling for the records on the file of the Respondent in DIN and Notice No. ITBA/AST/S/ 148/2024-25/ 1074927704(1) dated 24.03.2025 for the Assessment Year 2021-22 and to quash the notice u/s.148 issued by the 1st Respondent.

PRAYER in WP No. 22699 of 2025:-Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari,_calling for the records on the file of the Respondent in DIN and Notice No. ITBA/AST/S/ 148/2024-25/ 1075116470(1)dated 27.03.2025 for the Assessment Year 2020-21 and to quash the notice u/s.148 issued by the 1st Respondent.

<u>PRAYER in WP No. 22711 of 2025:-</u>Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, calling for the records on the file of the Respondent in DIN and Notice No. ITBA/AST/S/ 148/2024-25/ 1074927706(1) dated 24.03.2025 for the Assessment Year 2023-24 and to quash the notice u/s.148 issued by the 1st Respondent.

<u>PRAYER in WP No. 22707 of 2025:-</u>Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, calling for the records on the file of the Respondent in DIN and Notice No. ITBA/AST/S/ 148/2024-25/ 1074927708(1) dated 24.03.2025 for the Assessment Year 2022-23 and to quash the notice u/s.148 issued by the 1st Respondent.

In all W.Ps

For Petitioner(s): Mr.T.Banusekar

For Respondent(s): Mr.A.P.Srinivas,
Senior Standing Counsel And
Mr.A.N.R.Jayaprathap,
Jr.Standing Counsel

COMMON ORDER

These writ petitions have been filed by the petitioner challenging the impugned notices dated 27.03.2025 and 24.03.2025, relating to the Assessment Years 2019-20 to 2021-22 and the Assessment Years 2022-23 & 2023-24, respectively, issued by the 1st respondent.

2.Mr.A.P.Srinivas, learned Senior Standing Counsel and Mr.A.N.R.Jayaprathap, learned Junior Standing Counsel takes notice on behalf of the respondents. By consent of the parties, the main writ petition is taken up for disposal at the admission stage itself.

3.Learned counsel for the petitioner would submit that the 1st respondent has issued a notice under Section 148 of the Income Tax Act (hereinafter referred as 'the Act'), stating that the books of accounts or documents, seized or requisitioned under Section 132 or Section 132A of the Act in the case of Shri Navaneeth Natarajan and Sowmiya Constructions pertains or pertains to, or any information contained therein, relate to the petitioner or the person in respect of which you are assessable under the Act and therefore, proposed to assess or reassess such income or recompute the loss or the depreciation allowance or any other allowance or deduction for the Assessment Years 2019-20 to 2023-24 and thereby, called for the petitioner to furnish their reply.

4.He would further submit that a Joint Venture Agreement has been entered between the petitioner and other co-owners of the subject property including M/s.Sowmiya Constructions. By virtue of the search conducted by the respondent in the business place of M/s.Sowmiya Construction and M/s.Navaneeth Natarajan, the 1st respondent had found that a sum of Rs.9,76,70,898/- was received in cash and the same was handed over to the co-owners of the subject property including the petitioner. In this regard, the 1st respondent initiated proceedings against the petitioner and other co-owners. He would submit also that there are seven co-owners for the subject property and if the amount of Rs.9,76,70,898/- divided to seven co-owners for five assessment years, the amount will not exceed Rs.50 Lakhs. Since one of the conditions to reopen the assessment after three years is that the income escaping assessment should be likely to exceed Rs.50 Lakhs, the notices issued under Section 148 of the Income Tax Act is not sustainable in law.

5.Mr.A.P.Srinivas, learned Senior Standing Counsel appearing for the respondents would submit that based on the statement recorded in the case of Shri Navaneeth Natarajan and Sowmiya Constructions, the notices have been issued to the petitioner under Section 148 of the Act. At this stage, it is for the petitioner to raise their objection through their reply and not by way of filing writ petition. Hence, prayed for dismissal of the writ petition.

6.Heard the learned counsel for the petitioner as well as the learned Senior Standing Counsel appearing for the respondents and perused the materials available on record.

7.Considering the submissions made by the learned counsel for the petitioner as well as the learned Senior Standing Counsel appearing for the respondents, it is evident that the statement recorded in the case of Shri.Navaneeth Natarajan and M/s.Sowmiya Construction during the search conducted thereon was that a sum of Rs.9,76,70,898/- was received as cash and handed over to the co-owners of the subject property and there was no statement as to how the said amount was paid to each and every co-owners. Under this circumstances, it is considered as a single transaction and the proceedings have been initiated and notices have been issued under Section 148 of the Act, with the available information and with the approval of the Principal Commissioner. Therefore, in such view of the case, the petitioner cannot take a stand that the amount of Rs.9,76,70,898/- have to be divided equally for five assessment years to the seven co-owners when no such admission was recorded by the respondent. At this stage, it is for the petitioner to file their reply along with the relevant documents before the 1st respondent and prove their case. Thus, this Court does not find any merits on the submissions made by the learned counsel for the petitioner and the writ petition is premature to decide all those issue in the notice stage itself.

8.In the result, these writ petitions stand dismissed. While dismissing this writ petition, it is made clear that, it is open for the petitioner to cross examine Shri.Navaneeth Natarajan, if so advised. No costs. Consequently, connected miscellaneous petitions are closed.

25-06-2025

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Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

To

1.The Assistant Commissioner Of Income Tax
Central Circle-2(3) Chennai
Room No. Investigation Building,
No.46, (old No.108) Mahatma Gandhi
Road, Chennai, Tamil Nadu-600 034.

2.The Director General of Income Tax
(Investigation)
Chennai New Building 2nd Floor,
New No 46, Old No 108, M G Road,
Nungambakkam

KRISHNAN RAMASAMY J.

rst

W.P.Nos.22689, 22699, 22703,
22707 & 22711 of 2025

25-06-2025