IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-06-2025

CORAM

THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 22853 of 2025
AND
WMP NO. 25677 OF 2025,WMP NO. 25678 OF 2025,WP NO. 22856 OF 2025,WMP NO. 25670 OF 2025,WMP NO. 25671 OF 2025

Murugan Karuppaiya,
2-152 Jamin Muthur,
Pollachi, Coimbatore 642 005.

Petitioner in both W.Ps

Vs

1.The Principal Commissioner of Income Tax,
Coimbatore-1, Coimbatore.

2.The Assessment Unit,
Income Tax Department, New Delhi.

3.The Income Tax Officer, Ward 1,
Pollachi.

4.The Additional Commissioner of Income Tax,
Non Corporate Range - 1, Coimbatore.

Respondents in
W.P.No.22853 of 2025

1.The Assessment Unit,
Income Tax Deaprtment, New Delhi.

2.The Principal Commissioner of Income Tax,
Coimbatore-1, Coimbatore.

3.The Income Tax Officer, Ward 1,
Pollachi.

4.The Additional Commissioner of Income Tax,
Non Corporate Range - 1, Coimbatore.

Respondent in
W.P.No.22856 of 2025

PRAYER in WP No. 22853 of 2025:-Writ Petition filed under article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the records of the case and quash the Impugned Order passed by the 1st respondent under Section 264 of the Income Tax Act, 1961, dated 08.08.2024 in DIN and Notice No ITBA/REV/F/ REV7/2024-25/ 1067440964(1) for the Assessment Year 2017-18 in PAN CQTPK4774L.

PRAYER in WP No. 22856 of 2025:-Writ Petition filed under article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, to call for the records of the case and quash the Impugned Notice u/s.148 of the Income Tax Act, 1961, dated 29.06.2022 in DIN and Notice No ITBA/AST/M/ 148-1/2022-23/ 1043657916(1) and the consequential Order passed under Section 147 r.w.s.144B of the Income Tax Act, 1961, dated 22.05.2023 in DIN and Notice No ITBA/ADT/S/ 147/2023-24/ 1053069867(1) for the Assessment Year

2017-18 in PAN CQTPK4774L.

In both W.Ps

For Petitioner: Mr.R.Venkatanarayanan for Subbaraya Aiyar Padmanabhan

COMMON ORDER

W.P.No.22853 of 2025 has been filed by the petitioner challenging the impugned order dated 08.08.2024 passed by the 1st respondent in the revision petition filed under Section 264 of the Income tax Act, challenging the assessment order dated 22.05.2023, relating to the Assessment Year 2017-18.

W.P.No.22856 of 2025 has been filed by the petitioner challenging the notice issued under Section 148 of the Income tax Act and the consequential assessment order dated 22.05.2023 passed by the 1st respondent, relating to the Assessment Year 2017-18.

2.Dr.B.Ramaswamy, learned Senior 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 petitioner was issued with show cause notice dated 10.05.2023 by the 1st respondent/The Assessment Unit, proposing to treat the cash deposit amounting to Rs.2,01,92,150/- as unexplained investment as per provisions of Section 69 sought adjournment r.w.s 115BBE of the Act and as to why purchase of vehicle for Rs.13,67,429/- should not be treated as unexplained expenditure as per provision of Section 69C r.w.s 115BBE of the Act. In response to the said show cause notice, the petitioner made a request for adjournment upto 31.05.2023 vide letter dated 15.05.2023. However, the 1st respondent/ The Assessment Unit without considering the request of the petitioner has passed the assessment order on 22.05.2023, confirming the proposals made in the show cause notice dated 10.05.2023. Aggrieved over the same, the petitioner filed the revision petition under Section 264 of the Income Tax Act, challenging the assessment order dated 22.05.2023. However, though the Principal Commissioner of Income Tax admitted that the Assessment Unit had not acted upon the adjournment letter filed by the petitioner, instead of setting aside the impugned assessment order dated 22.05.2023, had decline to interfere with the same.

Hence, the learned counsel for the petitioner seeks to grant one more opportunity to the petitioner to file reply before the 1st respondent/The Assessment Unit with the direction to the 1st respondent/The Assessment Unit to consider the reply of the petitioner and to afford an opportunity of personal hearing to establish the case of the petitioner.

4.Learned Senior Standing Counsel appearing for the respondents vehemently opposed the submissions of the learned counsel for the petitioner seeking one more opportunity for filing their reply and prayed to dismiss the present case.

5.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.

6.Considering the submissions made by the learned counsel for the petitioner as well as the learned Senior Standing Counsel appearing for the the respondents, it is evident that the show cause notice was issued by the 1st respondent on 10.05.2023. In response, the petitioner sought time to file their reply till 31.05.2023. However, the 1st respondent without granting such time, has passed the impugned assessment order on 25.05.2023 confirming the proposals made in the show cause notice, which is violation of principal of natural justice. Therefore, this Court finds that there is a lack of opportunities being provided to the petitioner. Hence, this Court is inclined to set-aside the impugned order with terms, by issuing the following directions:-

(i) The impugned assessment order dated 22.05.2023 is set aside and the matter is remanded back to the 1st respondent/The Assessment Unit for fresh consideration.

(ii) In view of the setting aside the assessment order dated 22.05.2025, the consequential revision order dated 08.08.2024 is hereby quashed.

(iii) The petitioner shall file their reply/objection along with the required documents before the 1st respondent/Assessment Unit, within a period of four weeks from the date of receipt of a copy of this order or the date the portal made available for the petitioner to file their reply, whichever is later.

(iv) On filing of such reply/objection by the petitioner, the respondent shall consider the same and issue a 14 days clear notice by fixing the date of personal hearing to the petitioner and thereafter, pass appropriate orders on merits and in accordance with law, after hearing the petitioner, as expeditiously as possible.

7.With the above directions, the writ petition in W.P.No.22856 of 2025 is disposed of and the writ petition in W.P.No.22853 of 2025 is allowed. There is no order as to costs. Consequently, the connected miscellaneous petitions are closed.

25-06-2025

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

To

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Income Tax Department New Delhi

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KRISHNAN RAMASAMY J.

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