IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-07-2025

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THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY

WP No. 22501 of 2025
AND
WMP NO. 25317 OF 2025

Mrs.Pramila,
W/o.Mr.Mukesh Kumar,
No.144, Purasawakkam High Road,
Kellys Chennai -600 010,
TamilNadu India.

Petitioner(s)

Vs

1. Assessment Unit,
Income Tax Department, New Delhi.

2.The Assistant Commissioner of Income Tax,
Non Corp Circle 4 (1) CHE,
Bsnl Building, IInd Floor, Income Tax Office,
No.16, Greams Road Chennai, Tamil Nadu.

3.The Principal Commissioner of Income Tax - 8,
No.16 Greams Road Chennai,
Tamil Nadu – 600 006.

Respondent(s)

PRAYER:-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 1st Respondent in Pan No.AAIPP9062F and quash the impugned order in ITBA/AST/S/147/2024-25/1073752429(1) dated 26.02.2025 passed by the 1st Respondent u/s 147 r.w.s 260 r.w.s 144B of the Income Tax Act, 1961 for the AY 2016-17 as illegal and without jurisdiction.

For Petitioner(s): Mr.Raghavrajeev Menon

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

ORDER

This writ petition has been filed by the petitioner challenging the impugned assessment order dated 26.02.2025 passed by the 1st respondent.

2.Learned counsel for the petitioner would submit that a notice under Section 148A(b) of the Income Tax Act (hereinafter referred as 'the Act'), was issued by the 2nd respondent on 01.06.2022 for the Financial Year 2015-16. In response, the petitioner filed a detailed reply on 05.06.2022 objecting the reasons for reopening the assessment for the Financial Year 2015-16. However, the 2nd respondent had passed the assessment order under Section 148A(d) of the Act and the consequential notice under Section 148 of the Act dated 28.07.2022. Thereafter, the petitioner was served with the impugned order under Sections 147 r.w.s 144B dated 14.05.2023, whereby the 1st respondent has made a huge addition of Rs.85,55,000/- as addition under Section 69 of the Act without giving any opportunity to the petitioner. The petitioner challenged the said order dated 14.05.2023 before this Court in W.P.No.20897 of 2023, whereby, this Court set aside the order passed under Section 147 r/w 144B and remanded the matter back to the respondent with a direction to provide personal hearing opportunity. Subsequently, on 03.07.2024 notice under Section 142(1) of the Act was issued by the 1st respondent. In response to the same, the petitioner sought time till 18.02.2025 for submitting their reply since the authorized representative of the petitioner was ill. On 18.02.2025, the petitioner filed their reply questioning the jurisdiction of the 2nd respondent issuing the notice under Section 148 of the Act and requested for video conferencing. However, the 1st respondent passed the assessment order dated 26.02.2025.

3.He would further submit that the notice under Section 148 of the Act was issued on 28.07.2022 for the Assessment Year 2016-17 and since the impugned Assessment Year being 2016-17, the 2nd respondent ought to have obtained prior approval from the Principal Chief Commissioner of Income Tax for issuance of notice under Section 148 as per the provisions of Section 151 (ii) of the Act. However, in the present case, the approval was obtained from the Principal Commissioner of Income Tax in terms of Provision of 151(i) of the Act. Hence, he would submit that the notice issued under Section 148 of the Act is *per se* invalid and prayed to quash the same.

4.Learned Senior Standing counsel appearing for the respondents would fairly submit that in the present case, since the order and notice dated 28.07.2022 has been issued under Section 148 of Act, for the Assessment Year 2016-17, which is beyond the period of three years, the 2nd respondent supposed to have obtained prior approval from the Principal Chief Commissioner of Income Tax and he prayed to pass appropriate orders.

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 records.

6.For better appreciation Section 151 of the Act is extracted hereunder:-

151. Sanction for issue of notice.

Specified authority for the purposes of Section 148 and section 148A shall be,—

(i) Principal Commissioner or Principal Director or Commissioner or Director, if three years or less than three years have elapsed from the end of the relevant assessment year;

(ii) Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General, if more than three years have elapsed from the end of the relevant assessment year.]

7.Considering the submissions made by the learned counsel for the petitioner as well as the learned Senior Standing Counsel appearing for the respondents and a perusal of Section 151(ii) of the Act would show that, the specified authority for the purpose of issuing notice under Section 148 beyond the period of three years from the end of the relevant assessment year is, the Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General. So admittedly, in the present case the approval has to be obtained from the Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General as defined under Section 151(ii). But, in the present case, the approval was not obtained from the Principal Chief Commissioner in terms of Section 151(ii) instead the approval was obtained from the Principal Commissioner of Income Tax before issuance of 148 notice. Therefore, the notice under Section 148 was issued in the present case in violation of provision of Section 151(ii) of the Income Tax Act. In view thereof, the initiation of proceedings itself is without any jurisdiction. Hence, the same is liable to be quashed. Accordingly, the order passed under Section

148A(d) and notice issued under Section 148 of the Act dated 28.07.2022 is hereby quashed.

8.In the result, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

25-07-2025

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

To

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KRISHNAN RAMASAMY J.

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