IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2025

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The HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

Writ Petition No.22433 of 2025 and
WMP.Nos.25219 & 25221 of 2025

Mrs.K.Saradha

...Petitioner

Vs.

1. The Income Tax Officer,
Non-Corporate Wad WD 22(4) TBM
Non-Corporate Range 22, Tambaram (Business Ward)
1st & 2nd Floor, 7, Ramakrishna Street, West Tambaram,
Chennai – 600 045.

2. The Principal Commissioner of Income Tax – 1,
Wanaparthy Block, No.121,
Mahatma Gandhi Road, Nungambakkam
Chennai – 600 034.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari calling for the records of the 1st respondent in issuance of Show Cause Notice u/s. 148 in DIN & Notice No: ITBA/AST/F/148A/2023-24/1063351544(1) dated 26.03.2024 and the consequential order of adjudication u/s. 147 r.w.s 144 of the Act vide DIN & Order No: ITBA/AST/S/147/2024-25/1075234914(1) dated 28.03.2025.

For Petitioner	:	Mr.V.Sundareswaran
For Respondents	:	Dr.B.Ramanakumar, Senior Standing Counsel

ORDER

Mr.B.Ramanakumar, learned Senior Standing Counsel (Taxes), takes notice on behalf of the respondents. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the show cause notice dated 26.03.2024 and the consequential impugned order dated 26.03.2024 passed by the 1st respondent and to quash the same.

3. The learned counsel for the petitioner would submit that the petitioner who is the Power of Attorney holder of her son and daughter-in-law who are living in abroad and a Power of Attorney dated 14.11.2019 was registered for the purchase of property in Chennai. Thereafter, the petitioner's son transferred some money for the petitioner's account and a sum of Rs.10,70,000/- was obtained as loan from LIC Housing. Thereafter, 148A notice was issued to the petitioner and the same was served in the portal. As the petitioner was the non filer of returns she had not got herself registered in the portal and therefore the petitioner was not aware of the same. Since the petitioner was not aware of the same, she has not filed any reply. Subsequently, on 26.03.2024, the 1st respondent issued Section 148 notice followed by reminder notices to the petitioner for passing the order and the same were also uploaded in the Portal. Only upon receiving a call by the daughter of the petitioner from the authorities concerned, the petitioner came to know of the impugned proceedings . Immediately, the petitioner's son with the help of Chartered Accountant filed objections along with required documents. But the 1st respondent without considering the same and without providing an opportunity of personal hearing has passed the impugned order. Hence, he prays to set aside the same.

4. The learned Senior Standing Counsel appearing for the respondents, on instructions would submit some error occurred while issuing the show cause notice and therefore the matter may be remanded back to the respondents. He fairly submitted that opportunity of personal hearing was not granted to the petitioner before passing the impugned order.

5. Heard both sides. Perused the records.

6. Considering the submissions made by the learned counsel appearing for the petitioner as well as the respondents and upon perusal of the documents, it is clear that though the reply was filed by the petitioner for the notices issued along with required documents, the 1st respondent without considering the same has passed the impugned order, stating that the petitioner has not furnished any coercive evidence to show that the investment was made by her son. That apart, opportunity of personal hearing has not been granted to the petitioner before passing the impugned order.

7. In the case on hand, the petitioner's son who is living in abroad has transferred some amount to the account of her mother, who is his Power of Attorney holder for purchasing a property at Chennai and the said aspect

was informed to the Department in the reply filed by the petitioner. If the respondents felt that no coercive evidence was furnished by the petitioner, they ought to have provided an opportunity of personal hearing to the petitioner so that she can very produce the documents required by the respondents. But, without doing so, the 1st respondent passed the impugned order.

8. In such view of the matter, this Court is inclined to set aside the impugned order dated 28.03.2025. Accordingly, this Court passes the following order:

i) The impugned order passed by the 1st respondent dated 28.03.2025 is set aside.

ii) Consequently, the matter is remanded to the 1st respondent for fresh consideration.

iii) The Respondents Department is directed to activate the portal, in order to enable to petitioner to file additional reply.

iv) Thereafter, the petitioner is directed to file additional reply, if any along with supportive documents within a period of two weeks, once the Respondent enabled the Portal.

v) Thereupon, the 1st respondent is directed to consider the reply filed already as well as additional reply and shall issue a clear 7 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

9. With the above observations & directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

23.06.2025

Index : Yes / No
Neutral Citation : Yes / No
Speaking Order : Yes / No
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To

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KRISHNAN RAMASAMY, J.

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