IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.24665 of 2022
and
W.M.P.Nos.23621 & 23622 of 2022

Subramanian Gopinath ... Petitioner

Vs.

The Assistant Commissioner of Income Tax,
Non-Corporate Circle-16,
121, Nungambakkam High Road,
Nungambakkam, Chennai – 600034. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records on the file of the respondent and quash the

i. impugned order passed by the Respondent under section 148A(d) of the Income Tax Act, 1961, ('Act') in PAN: ADVPG8229P, DIN & Letter No.ITBA/COM/F/17/2022-23/1044298153(1) dated 29.07.2022 for the AY 2013-14.

ii. impugned notice no.1 issued by the Respondent under section 148 of the Act in PAN: ADVPG8229P, DIN-ITBA/AST/S/148/2021-22/1032548040(1) dated 20.04.2021 for the AY 2013-14, and the

iii. impugned notice no.2 under section 148 of the Act issued by the Respondent in PAN: ADVPG8229P dated 29.07.2022 for the AY 2013-14, the Document No.(DIN) for the same, communicated vide intimation letter dated 29.07.2022 as ITBA/AST/M/148_1/2022-23/1044298986(1).

For Petitioner : Mr.N.V.Balaji

For Respondent : Dr.B.Ramasamy
Senior Standing Counsel

ORDER

In this Writ Petition, the Petitioner has challenged the Notice dated 20.04.2021 issued under Section 148 of the Act under the old regime as in force till 31.03.2021 for the Assessment Year 2013-2014 and the Order dated 29.07.2022 passed under Section 148A(d) of the Act and consequential Section 148 Notice dated 29.07.2022 issued under the new regime as in force with effect from 01.04.2021.

2. The impugned Section 148 Notice dated 29.07.2022 issued under the new regime as in force with effect from 01.04.2021 was issued in the light of the Judgement of the Hon’ble Supreme Court in **Ashish Agarwal Vs. Union of India.,** (2023) 1 SCC 617 on **04.05.2022**.

3. The facts on record reveals that the Petitioner had filed the Return of Income on 27.06.2016 for the Assessment Year 2013-2014, pursuant to which the impugned Section 148 Notice dated 20.04.2021 was issued under the old regime. In response to the said Section 148 Notice, the Petitioner filed its revised Return of Income on 04.05.2021 for the Assessment Year 2013-2014.

4. Consequently, a Notice dated 15.11.2021 under Section 143(2) of the Act was issued to the Petitioner pursuant to the revised Return of Income filed by the Petitioner, to which the Petitioner failed to file a reply.

5. Meanwhile, the Hon'ble Supreme Court delivered its judgement in **Ashish Agarwal case,** referred to *supra* which later clarified by the decision of the Hon'ble Supreme Court in **Union of India** Vs. **Rajeev Bansal**, 2024 SCC Online SC 2993.

6. It is in this background, a Notice dated 27.05.2022 was issued under Section 148A(b) of the Act under the new regime as in force with effect from 01.04.2021, which ultimately culminated in the impugned Order dated

29.07.2022 under Section 148A(d) of the Act and the impugned Section 148 Notice dated 29.07.2022 issued under the new regime.

7. The petitioner failed to file a response to the aforestated Notice dated 27.05.2022 issued under Section 148A(b) of the Act to explain as to why a fresh re-assessment Section 148 Notice under the new regime should not be issued. Therefore, the impugned Order dated 29.07.2022 under Section 148A(d) of the Act and the consequential impugned Section 148 Notice dated 29.07.2022 was passed for the Assessment Year 2013-2014.

8. The specific case of the Petitioner is that pursuant to the issuance of Section 148 Notice dated 20.04.2021 issued under the old regime, the Petitioner filed its revised Return of Income. However, a consequential Notice dated 15.11.2021 was issued under Section 143(2) of the Act to which the Petitioner failed to reply and thus suffered the impugned order and Notice under Section 148 of the Act under the new regime as in force with effect from 01.04.2021.

9. It is the further case of the Petitioner that the Notice dated 27.05.2022 issued under Section 148A(b) of the Act issued under the new

regime as in force with effect from 01.04.2021 was not served on the Petitioner and therefore, the Petitioner was not aware of the re-assessment proceedings initiated against the Petitioner under Section 148 of the Act under the regime for the Assessment Year 2013-2014.

10. It is therefore submitted by the learned counsel for the Petitioner that since the petitioner had failed to participate in the re-assessment proceedings initiated with the issuance of Notice dated 27.05.2022 issued under Section 148A(b) of the Act, the impugned order and Notice had been passed and thus, challenged in this Writ Petition.

11. It is noticed that the Petitioner had secured an interim order for stay of further proceedings pursuant to the impugned order dated 29.07.2022 and consequential impugned Section 148 Notice dated 29.07.2022 from this Court on 13.09.2022.

12. I have heard the arguments advanced by the learned counsel for the Petitioner and the learned Senior Standing counsel for the Respondents.

13. Relevant dates for the present case are as follows:-

Assessment Year 2015-2016	
Date	**Event**
20.04.2021	Notice under Section 148 of the Act (old regime)
04.05.2022	Ashish Agarwal case
02.06.2022	Time granted to issue Notice under Section 148A(b) of the Act as per Ashish Agarwal case (30 days)
27.05.2022	Notice under Section 148A(b) of the Act
14 days	Time granted for the Petitioner to file a reply
No reply	Reply given by the Petitioner
29.07.2022	Order under Section 148A(d) of the Act (new regime)
29.07.2022	Notice under Section 148 of the Act (new regime)

14. The averments in the Affidavit filed in support of the Writ Petition indicates that the Petitioner was unaware of the re-assessment proceedings

initiated by issuance of Notice dated 27.05.2022 under Section 148A(b) of the Act under the new regime as in force with effect from 01.04.2021 which culminated in the impugned order dated 29.07.2022 under Section 148A(d) of the Act and consequential impugned Section 148 Notice dated 29.07.2022 under the new regime for the Assessment Year 2013-2014.

15. In view of the above and considering the fact that there are several disputed questions of fact which cannot be adjudicated by this Court under Writ jurisdiction, the case is remitted back to the respondent to pass a fresh order on merits.

16. Accordingly, the case is remitted back to the respondent to pass a fresh order under Section 148A(d) of the Act and the consequential impugned Section 148 Notice under the new regime as in force with effect from 01.04.2021, subject to the Petitioner filing a reply to Section 148A(b) Notice dated **27.05.2022** within fourteen days from the date of receipt of a copy of this order.

17. If the Petitioner fails to comply with the above stipulations, this Writ Petition shall be deemed to be dismissed.

18. The time between the passing of the impugned order dated **29.07.2022** and impugned Notice under Section 148 of the Act dated **29.07.2022** till the passing of the *de novo* order shall stand excluded for computing the period of limitation for issuance of Section 148 Notice under the new regime.

19. This Writ Petition is disposed of with the above observation. Consequently, connected miscellaneous petitions are closed. No costs.

18.11.2025

raja

Neutral Citation : Yes / No

To

The Assistant Commissioner of Income Tax,
Non-Corporate Circle-16,
121, Nungambakkam High Road,
Nungambakkam, Chennai – 600034.

C.SARAVANAN, J.

raja

W.P.No.24665 of 2022

18.11.2025