IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.25630 of 2022
and
W.M.P.Nos.24617, 24618 and 24620 of 2022

M/s. Golden Enterprises,
No.23, Chordia House,
General Muthia Mudali Street,
Sowcarpet, Chennai – 600 079.
PAN: AAFFG1597F ... Petitioner

Vs.

1. The Income Tax Officer,
Non Corporate Ward – 4 (3) Chennai,
Income Tax Department,
121, Nungambakkam High Road,
Nungambakkam, Chennai – 600 034.
2. The Principal Commissioner of Income Tax, Chennai – 8,
Income Tax Department,
121, Nungambakkam High Road,
Nungambakkam, Chennai – 600 034.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari to call for the records of the Writ Petitioner on the file of the first respondent to quash the impugned order under Section 148A(d) of the Income Tax Act, 1961 dated 29.07.2022 in DIN & Order DIN & Order No.ITBA/COM/F/17/2022-23/1044318665(1) and consequential notice issued under Section 148 of the Income Tax Act, 1961 dated 29.07.2022 in DIN & Document No.ITBA/AST/S/91/2022-23/1044322181(1) for the Assessment Year 2013-14.

For Petitioner : Mr.A.S.Sriraman

For Respondents : Ms.S.Premalatha,
Senior Standing Counsel

ORDER

The petitioner has challenged the impugned order dated 29.07.2022 passed under Section 148A(d). The impugned order has been passed subsequent to the order dated 04.05.2022 of the Hon'ble Supreme Court of India in ***Union of India vs. Ashish Agarwal,*** reported in ***(2023) 1 SCC 617***.

2. In paragraph 28.1 of the decision of the Hon'ble Supreme Court of India in ***Union of India vs. Ashish Agarwal,*** reported in ***(2023) 1 SCC 617,*** the Court has held as under:-

> *" 28.1. In view of the above and for the reasons stated above, the present Appeals are Allowed in Part. The impugned common judgments and orders passed by the High Court of Judicature at Allahabad in W.T.No.524/2021 and other allied Tax appeals / petitions, is/are hereby modified and substituted as under:-*
>
> > *1. The impugned Section 148 notices issued to the respective assessees which were issued under unamended Section 148 of the IT Act, which were the subject matter of writ petitions before the various respective High Courts shall be deemed to have been issued under Section 148A of the IT Act as substituted by the Finance Act, 2021 and construed or treated to be show-cause notices in terms of Section 148A(b). The assessing officer shall, within thirty days from today provide to the respective assessees information and material relief upon by the Revenue, so that the assessees can reply to the show-cause notices within two weeks thereafter."*

3. The petitioner has challenged the impugned order primarily on the ground that the respondent, as the Assessing Officer, did not provide the information and material relied upon, which were necessary for the petitioner to

reply to the notice issued under Section 148A(b) of the Income Tax Act on 27.05.2022.

4. In this connection, the learned counsel for the petitioner has drawn attention to the petitioner's reply dated 02.06.2022. It is specifically submitted that, in the absence of proper information as contemplated in para 10 (i) / 28.1 of the Judgment in ***Union of India vs. Ashish Agarwal,*** the respondent was duty-bound to provide the requisite information to enable the petitioner to respond to the notice issued under Section 148A(b) of the Income Tax Act, 1961 on 27.05.2022. It is therefore submitted that the impugned order dated 29.07.2022 passed under Section 148A(d) is therefore liable to be interfered with.

5. On the other hand, the learned Senior Standing Counsel for the respondents submits that the notice issued under Section 148A(b) on 27.05.2022 clearly contains the basic information contemplated under para 10 (i) / 28.1 of

the Judgment of the Hon'ble Supreme Court in ***Union of India vs. Ashish Agarwal.*** It is therefore submitted that there is no merits in the challenge to the impugned proceedings, which have culminated in the issuance of notice under Section 149 of the Income Tax on 29.07.2022.

6. Considering the arguments advanced by the learned counsel for the petitioner and learned Senior Standing Counsel for the respondents, the notice issued on 27.05.2022 pursuant to the directions of the Hon'ble Supreme Court of India dated 04.07.2022 in ***Union of India vs. Ashish Agarwal*** is perfectly consistent with the said directions. The facts captured in paragraph 3 of the notice dated 27.05.2022 issued under Section 148A(b) clearly sets out the following points:-

> " *As per the details available with this office, the assessee has claimed brought forward business loss to the tune of Rs.3,27,72,939/- for the assessment year 2013-14. After set off of entire business income of Rs.3,10,15,368/-, the assessee admitted nil total income for the subject Assessment Year and claimed balance Rs.17,57,571/- as carry forward loss to be available for next Assessment Year. Whereas the eligible brought forward business loss was allowed restricting to the extent of*

Rs.48,24,959/- only for Assessment year 2013-14. Therefore, the balance amount of Rs.2,51,90,409/- will be resulted for tax (Rs.3,10,15,368/- Rs.48,24,959/-) is not be set off and treated as income for the said Assessment Year. Also no further business loss will be available to the assessee to carry forward to next Assessment Year 2014-15."

7. In other words, the petitioner has claimed a carry- forward business loss to the tune of Rs.3,27,72,939/-, for the assessment year 2013-2014. This amount has been set off against the entire business income of Rs.3,10,15,368/-, thereby admitting the income of Rs.3,10,15,368/-. The balance loss of Rs.17,57,571/- [Rs.3,27,72,939 – Rs.3,10,15,368/-] has remained. However, this has been disallowed in entirety, resulting in the loss being restricted, for carry- forward purposes, to a sum of only Rs.48,24,959/- from the previous assessment year.

8. The petitioner was aware of the information, and therefore, it was incumbent upon the petitioner to substantiate the alleged loss of Rs.3,27,72,939/-. If this loss was disclosed earlier, the petitioner would have

been entitled to receive the information required under para 10 (i) / 28.1 of the decision of the Hon'ble Supreme Court referred to supra.

9. Apart from this, Section 148A(b) makes it clear that the notice issued under Section 148A(b) must be based on information suggesting that income chargeable to tax has escaped assessment for the relevant assessment year. For the sake of clarity, Section 148A(a) and 148A(b) are reproduce below:-

Under Section 148A(a)	**Under Section 148A(b)**
(a) conduct any enquiry, if required, with the prior approval of specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment;	*(b) provide an opportunity of being heard to the assessee, with the prior approval of specified authority, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than seven days and but not exceeding thirty days from the date on which such notice is issued, or such time,*

	as may be extended by him on the basis of an application in this behalf, as to why a notice under Section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any as per clause (a);

10. Therefore, the challenge to the impugned proceedings has to fail. Therefore, this writ petition is liable to be dismissed. The respondents are therefore directed to complete the proceedings within the time stipulated under Section 153 of the Act. The period during which the proceedings were pending prior shall be excluded for computing the limitation. It is open to the petitioner to substantiate that the petitioner was justified to declare a business loss of Rs.3,27,72,939/-.

11. Accordingly, this writ petition is dismissed. No costs. Connected Writ Miscellaneous Petitions are closed.

18.11.2025

Index : Yes/No
Neutral Citation : Yes/No

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C.SARAVANAN, J.

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