IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.27930 of 2025
and
W.M.P.Nos. 31308 & 31309 of 2025

Malayalan Muthukumar ...Petitioner

Vs.

1.National Faceless Assessment Centre,
Income Tax Department,
Jawahar Lal Nehru Stadium,
New Delhi – 110 003.

2.Income Tax Officer,
Non-Corp Ward 9(1) CHE,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai – 600 034. ...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the 2nd Respondent contained in its Notice issued under Section 148 of the Income Tax Act, 1961 (hereinafter referred to as the Act) bearing DIN and Notice No ITBA/AST/S/ 148-1/ 2023-24/ 1063594121(1), dated 29.03.2024, and all proceedings in furtherance thereto including but not limited to the Assessment Order passed by the 1 st Respondent under Section 147 read with Section 144 and Section 144B of the Act, bearing DIN ITBA/AST/ S/147/ 2024-25/ 1071505687(1), dated 23.12.2024, Notice issued by the 1 st Respondent under Section 156 of the Act, bearing DIN and Notice No ITBA/AST/S/ 156/2024-25/ 1071506602(1), dated 23.12.2024, Penalty Order passed by the 1st Respondent under Section 272A(1)(d) of the Act, bearing DIN ITBA/PNL/ F/272A(1)(d)/ 2025-26/ 1077750215(1), dated 24.06.2025, Notice of Demand issued by the 1st Respondent under Section 156 of the Act, bearing DIN and Notice No. ITBA/PNL/S/ 156/ 2025-26/ 1077749179(1), dated 24.06.2025, Penalty Order passed by the 1st Respondent under Section 270A of the Act, bearing DIN ITBA/PNL/F/ 270A/2025-26/ 1077750063(1), dated 24.06.2025, Demand Notice issued by the 1st Respondent under Section 156, bearing DIN and Notice No.ITBA/ PNL/S/ 156/ 2025-26/1077749181(1), dated 24.06.2025, Penalty Order passed by the 1st Respondent under Section 271AAC(1) of the Act, bearing DIN ITBA/ PNL.F/ 271AAC(1)/ 2025-26/1077910095(1), dated 27.06.2025, and Demand Notice issued by the 1 st Respondent under Section 156 of the Act, bearing DIN and Notice No. ITBA/PNL/ S/156/2025-26/ 1077906067(1), dated 27.06.2025, and quash the same as arbitrary, unjust and illegal, for the AY 2020-21.

For Petitioner : Mr.Suhrith Parthasarathy

For Respondents : Mr.Avinash Krishnan Ravi
Junior Standing Counsel

Order

Challenge was made against the impugned notice issued under Section 148 of the Income Tax Act, 1961 dated 29.03.2024 as well as the assessment order dated 23.12.2024 and further, the initiation of penalty proceedings by passing penalty order dated 24.06.2025.

2. Mr.Avinash Krishnan Ravi, learned Junior Standing Counsel, who takes notice on behalf of the first respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

3. The learned counsel appearing for the petitioner would submit that the assessment order and penalty proceedings was passed in exparte without providing any opportunity of hearing to the petitioner. He would submit that the petitioner's then Consultant, look after the income tax issues however, the Consultant has not communicated the notices uploaded by the respondent in the online portal. The Consultant failed to notice the same and therefore, no reply was filed. However, he would further submit passing of assessment order as well as the penalty proceedings without providing the opportunity of hearing the petitioner was in violation of law and the

principles of natural justice and, the same is liable to be set aside. Hence, this Writ Petition is filed seeking relief as sought for. Further, he would submit that he is not pressing on the aspect of issuance of 148 notice.

4. The learned counsel Standing appearing for the respondent would submit that the respondent not only uploaded the notice in the portal but also sent the notice through speed post and the petitioner also received the same. However, he would submit that since the order passed exparte, the matter may be remanded back for fresh consideration, subject to the conditions as imposed by this Court.

5. In reply of the submission of the made by the learned Standing Counsel, the learned counsel for the petitioner would submit that he has not received any notice by speed post.

6. Therefore, this Court finds that there is a lack of opportunities being provided to serve the notices/orders etc., effectively to the petitioner. In such circumstances, this Court is of the view that the impugned

assessment order came to be passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notice. Further, it was submitted by the petitioner that he is not pressing on the aspect of issuance of 148 notice. Hence, this Court is inclined to set-aside the impugned order with, by issuing the following directions:-

i) The impugned order dated 23.12.2024, and the penalty order 24.06.2025 are set aside and, the matter is remanded back to the respondent for fresh consideration subject to the payment of a sum of Rs.20,000/- to the Principal, Government Naturopathy Medical College and Hospital, Account No.7883022723, IFSC Code : IDIB000M157, within a period of two weeks from the date of receipt of a copy of this order.

ii) Thereafter, the petitioner is directed to make a request to the respondent to open the portal to file a reply, in which case, the petitioner is directed to file a reply along with supportive within a period of four weeks

iii) Thereupon, the concerned respondent is directed to consider the reply and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

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

28.08.2025

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Index : yes/no
Neutral Citation : yes/no

To

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Krishnan Ramasamy,J.,

KKN

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