IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-10-2025

CORAM

THE HONOURABLE MR JUSTICE C. SARAVANAN

WP No. 30763 of 2025 and WP NO. 27842 OF 2025
AND
WMP NO. 34474 OF 2025,WMP NO. 31180 OF 2025,WMP NO. 31182 OF 2025,WMP NO. 31183 OF 2025,WMP NO. 31184 OF 2025

1. Bindu Nair
No.30, Rangan Street, T.Nagar,
Chennai, Tamilnadu-600 017 Presently
Res.At 173, Currie Road, Musgrave,
Durban, Kwazulu-natal, South Africa-
4001

Petitioner(s)

Vs

1. Income Tax Officer(IT and TP)
International Taxation (IT and TP),
Aayakar Bhawan, Bhopal, Madhya
Pradesh-462 016

2.Income Tax Officer
Non Corporate Ward 1 (2) Chennai,
Tamil Nadu - 600 034

3.Dispute Resolution Panel 2
Room No. 2007,20th Floor, Air India
Building, Nariman Point, Mumbai,
Maharashtra - 400 021

Respondent(s)

WP No. 27842 of 2025

1. Bindu Nair

Petitioner(s)

Vs

1. Income Tax Officer (IT And TP)
International Taxation Ward (IT And TP) Aayakar Bhawan, Bhopal,
Madhya Pradesh-462 016.

2.Income Tax Officer
Non Corporate Ward 1 (2) Chennai,
Tamil Nadu-600 034

Respondent(s)

WP No. 30763 of 2025

PRAYER

calling for the records of the 3rd Respondent contained in its order dated. 25.06.2025 bearing ITBA/DRP/F/144C(5)/2025-26/1077777523(1) in AY 2017-18 for PAN. ABWPN5872G and to quash the same as the same as arbitrary, illegal and unjust

WP No. 27842 of 2025

PRAYER

calling for the records of the 2nd Respondent contained in its order under section 148A (d) of the Income Tax Act, 1961 dated 28.03.2024 bearing ITBA/AST/ F/148A/2023- 24/ 1063558940(1) in AY 2017-18 for PAN ABWPN5872G and all consequent proceedings thereto including but not limited to the notice of the 2nd Respondent under section 148 of the Income Tax

Act, 1961 dated 28.03.2024 bearing ITBA/ AST/ S/ 148_1/ 2023-24/ 1063561961(1) in AY 2017-18 for PAN ABWPN5872G and the assessment order passed by the 1 st Respondent dated 19.05.2025 bearing order no. ITBA/ AST/S/ 147/2025-26/ 1076293967(1) in AY 2017-18 for PAN ABWPN5872G and to quash the same as the same as arbitrary, illegal and unjust

WP No. 30763 of 2025

For Petitioner(s):	Suhrith Parthasarathy Arun Karthik Mohan Amritha Sathyajith Harshvardan.R Gayathri.G
For Respondent(s):	Mr. Avinash Krishnan Ravi Junior Standing Counsel For Mr. B. Ramanakumar Senior Standing Counsel for Respondents.

COMMON ORDER

By this Common Order, both the Writ Petitions are being disposed of after hearing the learned counsel for the Petitioner and learned standing counsels for the Respondents.

2. In W.P. No.27842 of 2025, the petitioner, a non resident, has challenged the impugned order passed under Section 148A (d) of the Income Tax Act, 1961 dated 28.03.2024 passed by the second respondent and the notice

issued under Section 148 on the same date and the assessment order dated 19.05.2025 passed by the first respondent.

3. The dispute pertains to the assessment year April 2017- March 2018. Initially, the petitioner was proceeded by the second respondent, whereby the petitioner was called upon to show cause as to why the proceedings should not be initiated by invoking Section 148 A (a) of the Income Tax Act, 1961 on 12.03.2024. The petitioner was given time upto 25.03.2024 by the second respondent vide communication dated 19.03.2024.

4. In this background, a notice under Section 148A(b) was issued to the petitioner on 19.03.2024 giving time upto 25.03.2024 to respond. Since the petitioner did not respond within the time stipulated in the aforesaid notice dated 19.03.2024, the order impugned came to be passed on 28.03.2024 under Section 148 A (d) of the Income Tax Act, 1961 by the second respondent. On the same date, a notice under Section 148 was also issued in response to which the petitioner appears to have also filed a return of income.

5. At this stage, the case was transferred from the jurisdiction of the second respondent to the first respondent. The petitioner was, thereafter, issued with notice, to which the petitioner had also replied, which ultimately culminated in a draft assessment order under Section 144C(1) of the Income Tax Act, 1961 dated 11.03.2025.

6. The petitioner had, therefore, filed an application before the Dispute Resolution Panel, Bhopal. The aforesaid application was filed by the petitioner through e-mail, which was forwarded by one Derrick Pillay, with his e-mail I.D., namely derrick_pillay@yahoo.com.

7. The application that was filed in Form 35A by the petitioner, was also marked to the office of the first respondent apart from the other officials named therein. Since the said e-mail was forwarded by the said Derrick Pillay on 04.04.2025, the first respondent proceeded to pass the impugned assessment order dated 19.05.2025 under Section 147 read with Section 144C(3) on the assumption that the petitioner had accepted the aforesaid draft assessment order.

The operative portion of the impugned assessment order passed by the first respondent dated 19.05.2025 reads as under:

> *"8. The draft assessment order dated 11/03/2025 u/s 144C (1) of the Income Tax Act 1961 had been issued to the assessee. In response to the above draft assessment order dated 11/03/2025 u/s 144C (1) of the Act, the assessee has not furnished any documentary evidences from which it can verify that the assessee has filed its objection before the Hon'ble DRP-2 (West Zone) Mumbai (Address- 28th Floor World Trade Centre, Cuffe Parade, Mumbai 400005) against the draft assessment order w/s 144C(1) of the Act within the stipulated time. Therefore, the assessee has not complied with the provisions of the section 144C (2) of the Income Tax Act 1961. Accordingly, the assessment is being completed under section 147 r.w.s. 144C(3) of the Income Tax Act 1961.*
>
> *9. Assessed income u/s 147 r.w.s. 144C (3) of the Income Tax Act 1961 on total income at Rs. 21,20,900/- (Rupee Twenty One Lakh Twenty Thousand and Nine Hundred Only). Give credit to prepaid tax, if any. Calculate tax as per ITNS 150. Issue demand notice and challan. Issue penalty notice u/s 271AAC of the Income Tax Act 1961."*

8. The challenge to the aforesaid order is primarily on the ground that there is gross violation of the principles of natural justice and failing to take note that the petitioner has approached the Dispute Resolution Panel, Mumbai

on 04.04.2025 despite copy of the same being marked to the office of the first respondent as is required under Section 144 C of the Income Tax Act, 1961.

9. After the impugned order was passed on 28.03.2024 by the first respondent, which is impugned in W.P. No.27842 of 2025, the third respondent in W.P. No.30763 of 2025 namely the Dispute Resolution Panel, Mumbai has disposed of all the applications filed by the petitioner under Section 144 C vide order dated 25.06.2025 under Section 144C(5) of the Income Tax Act, 1961 with the following observations:

> *"**6.2** As per facts of the case, there is mistake which appears to be unintentional /misguided, on part of the applicant in respect of 144C(2)(b)(ii) in non-filing of objections before the Assessing Officer and the Assessing Officer has no option but to act as per 144C(3)(b), which is a mandatory requirement being Assessing Officer "shall complete the assessment". Thus, there is a failure, albeit unintentional, on part of the applicant assessee in terms of sub-section 144C(2) of the Income Tax Act. In terms of sub-section 144C(5), the objection has not been received as per sub-section 144C(2).*
>
> *Hence, the assessment is liable to be completed by the Assessing Officer as per Law Therefore, mandate of sub-section 144C(5) of the Income Tax Act, 1961 fails in this case due to unintentional failure of the applicant assessee*

> *to meet the terms of sub-section 144C(2). Hence, in considered opinion of this Panel, the Ld. Assessing Officer is required to complete the assessment within legal and statutory time limit as per provision of clause 144C(4)(b) of the Income Tax Act, 1961."*

10. Reading of the above orders indicate that in the said order, it is stated that the statutory time limit to file objection before the third respondent, Dispute Resolution Panel, Mumbai under Section 144C(2)(b)(ii) expired on 10.04.2025 whereas the objection was filed on 17.04.2025 (wrongly referred to as clause 114C (2) (b) in paragraph No.3 under the caption **Timeline in View of the facts and proceedings of the Case)**. In fact, in the very first paragraph, in sub paragraph No.2 also the date of the applications under the aforesaid provisions has been given as 17.04.2025. It is contrary to the facts on record.

11. The learned counsel for the respondents on the other hand would submit that the practice followed for filing an application under Section 144 C (1) of the Income Tax Act, 1961 before the third respondent, Dispute Resolution Panel in W.P. No.30763 of 2025 is that the soft copy of the

application should also accompany physical copy of the same and that in this case the physical copy was filed only on 17.04.2025. Thus, the objection was itself beyond the limitation prescribed under Section 144 C (2) (b) of the Income Tax Act, 1961.

12. It is, therefore, submitted that both the impugned orders passed by the first respondent in W.P. No.27842 of 2025 and the third respondent in W.P. No.30763 of 2025 viz., the Dispute Resolution Panel, Mumbai do not merit any interference. That apart, it is submitted that the petitioner has alternate remedy before the Tribunal both against the order of the Dispute Resolution Panel, Mumbai and against the impugned assessment order, an Appeal before the Commissioner of Income Tax Act, 1961.

13. Having considered the submissions made by the learned counsel for the petitioner and the learned counsel for the respondents, and having perused the documents filed in support of the respective writ petitions and having perused the averments in the counter filed in the respective writ petitions, it is evident that there has been a gross violation of the principles of natural justice

while passing the impugned Assessment Order dated 19.05.2025 impugned in W.P. No.27842 of 2025 and the impugned order dated 25.06.2025 passed by the third respondent, Dispute Resolution Panel, Mumbai in W.P. No.30763 of 2025.

14. The petitioner has cooperated with the respondent right from the stage of issuance of the notices on 12.03.2024, which was followed by various notices including notice dated 19.03.2024 issued under Section 148A(b) to Order dated 28.03.2024 passed under Section 144A(d) and Draft Assessment Order dated 11.03.2025 under Section 144C(1) of the Act. In fact, the petitioner had also filed an objection under Section 144C(2) before the third respondent, Dispute Resolution Panel, Mumbai by marking a copy of the same through email to the office of the first respondent. However, the respective impugned orders have been passed and the relevant portion of the same as detailed above.

15. Considering the same, the Impugned Assessment order passed by the First respondent on 19.05.2025 under Section 147 read with Section 144C(3) and order passed by the third respondent, Dispute Resolution Panel, Mumbai on

25.06.2025 are quashed and the cases are remitted back to the respondents to pass fresh orders.

16. The third respondent in W.P. No.30763 of 2025 shall first dispose of the objection of the petitioner within the time stipulated under the provisions of the Income Tax Act. Thereafter, the first respondent namely the Income Tax Office (IT and TP), International Taxation (IT an TP), Aayakar Bhawan, Bhopal, Madhya Pradesh - 462 016 shall pass appropriate orders on merits. In case physical copy of the objection has not been filed before the Dispute Resolution Panel, Mumbai, the petitioner shall file the same within a period of thirty (30) days from the date of receipt of a copy of this order.

17. These Writ Petitions stand disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

25-10-2025

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

WP No. 30763 of 2025

To

1. Income Tax Officer(IT and TP)
International Taxation (IT and TP),
Aayakar Bhawan, Bhopal, Madhya
Pradesh-462 016

2.Income Tax Officer
Non Corporate Ward 1 (2) Chennai,
Tamil Nadu - 600 034

3.Dispute Resolution Panel 2
Room No. 2007,20th Floor, Air India
Building, Nariman Point, Mumbai,
Maharashtra - 400 021

WP No. 27842 of 2025

To

1. Income Tax Officer (IT And TP)

International Taxation Ward (IT And TP) Aayakar Bhawan, Bhopal, Madhya Pradesh-462 016.

2.Income Tax Officer
Non Corporate Ward 1 (2) Chennai,
Tamil Nadu-600 034

C.SARAVANAN J.

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AND WMP NO. 34474
OF 2025,WP NO. 27842
OF 2025,WMP NO.
31180 OF 2025,WMP
NO. 31182 OF
2025,WMP NO. 31183
OF 2025,WMP NO.
31184 OF 2025**

25-10-2025