IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 20-06-2025**

CORAM

**THE HONOURABLE MR JUSTICE KRISHNAN RAMASAMY**

**WP No. 32028 of 2024**

R.Krishnamoorthy,
Son of Rajunaidu,
29-A, North End Road,
II Layout, Krishnaswamy Nagar,
Coimbatore-641 045.

Petitioner(s)

Vs

1. The Principal Commissioner of Income Tax,
Race Course, Coimbatore.

2.The Assistant Commissioner of Income Tax,
Non-Corporate Circle-II,
Race Course, Coimbatore-641 018.

Respondent(s)

**PRAYER:-**Writ Petition filed under article 226 of the Constitution of India, praying for an issuance of Writ of Certiorari, calling for the records on the file of the 1st respondent relating to the demand raised through email dated 14.11.2023 in respect of demand bearing reference No. 2005200920055 1038864131T dated 07.11.2006 and quash the same.

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| For Petitioner(s): | Mr.I.Inian<br>For Mr.T.Sai Krishnan |
| For Respondent(s): | Dr.B.Ramaswamy<br>Senior Standing Counsel |

**ORDER**

This writ petition has been filed by the petitioner to call for the records on the file of the 1st respondent relating to the demand raised through email dated 14.11.2023 in respect of demand bearing reference No. 2005200920055 1038864131T dated 07.11.2006 and to quash the same.

2.Learned counsel for the petitioner would submit that, in the present case, the demand notice dated 07.11.2006 relating to the assessment year 2005-

2006 was issued without issuing any prior notice and the same was communicated to the petitioner through email only on 14.11.2023 after a period of 18 years. Learned counsel by referring Section 143(1) of the Income Tax Act, 1961 would submit that if there is any variations in the data provided by the assessee in their income tax returns, proper intimation has to be made to the petitioner as per Proviso 1 and 2 to the Section 143 of the Income Tax Act, 1961 and immediately after the receipt of the intimation, the assessee can file the reply to the same. After considering the reply filed by the assessee, the respondent can finally make the assessment. However, in the present case no such intimation was made. Therefore, without application of mind, the demand was made which is *per se* illegal and the same is liable to be quashed.

3.In reply, Dr.B.Ramaswamy, learned Senior Standing Counsel appearing for the respondents on instruction would submit that the Assessing Officer had sent the intimation but the Officer is not in a position to provide the copy of the intimation letter and therefore, he could not produce the same before this Court.

4.Heard the learned counsel for the petitioner as well as the learned Senior Standing Counsel appearing for the respondents and perused the materials available on record.

5.Considering the submissions made by the learned counsel for the petitioner and the learned Senior Standing Counsel appearing for the respondents, it is evident that the demand has been raised by the Demand Facilitation Centre on 14.11.2023 stating that there was a demand as on 07.11.2006. At this juncture, in the event if there is any variations in the tax amount, the same should be intimated to the assessee before making such adjustments and the assessee is entitled to provide their reply as per Section 143(1) of the Income Tax Act, 1961 and thereafter only the final demand can be made. In the present case, such adjustment was made without the issuance of intimation as per Section 143(1) of the Income Tax Act, 1961 and hence, the same is liable to be quashed.

6.In view of the above, the impugned demand notice dated 14.11.2023, is hereby quashed and the present writ petition stands allowed. No costs.

**20-06-2025**

rst

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

To

1.The Principal Commissioner of Income Tax,
Race Course, Coimbatore.

2.The Assistant Commissioner of Income Tax,
Non-Corporate Circle-II, Race Course,
Coimbatore-641 018.

**KRISHNAN RAMASAMY J.**

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