IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2025

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 33863 of 2025
and
W.M.P. Nos.38000 & 38002 of 2025

Shanmugam Sampath ... Petitioner

Vs

1.Assessment Unit,
Income Tax Department,
Ministry of Finance,
New Delhi.

2.Verification Unit,
Vellore.

3.Commissioner of Income Tax (Appeals)
NFAC, New Delhi.

4.Income Tax Officer,
Ward 2,
No.2, Barracks Cross Street,
Officers Lane,
Vellore – 632 001. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the 1st respondent in Impugned Order u/s 147 r.w.s 144 r.w.s.144B of the Income Tax Act, 1961 passed in DIN:ITBA/AST/S/147/2024-25/1071505705(1) dated

23.12.2024 for the Assessment Year 2017-18 and quash the same.

For Petitioner : M/s.G.Vardini Karthik

For Respondents : Dr.B.Ramasamy
Senior Standing Counsel
(For R1 & R4)

ORDER

The present writ petition has been filed, seeking issuance of a Writ of Certiorari, to call for the records of the 1st respondent relating to the impugned order passed under Section 147 r/w 144 and 144B of the Income Tax Act, 1961 in DIN:ITBA/AST/S/147/2024-25/1071505705(1) dated 23.12.2024 for the Assessment Year 2017-18 and to quash the same.

2. Heard M/s.G.Vardini Karthik, learned counsel for the petitioner and Dr.B.Ramasamy, learned Senior Standing Counsel for the respondents 1 and 4.

3. The petitioner claims to be a Supervisor, who was engaged by the Village President for constructing a temple (Mariamman and Selliamma temples), which was in a dilapidated condition in Poondi Village, Vellore District, Tamil Nadu.

4. It is the specific case of the petitioner that he merely lent his name for receiving the donations from devotees and donors for the renovation of the temple and that the President of the Village namely Mr.Prakash, had opened a joint account in the name of the petitioner along with one Mr.Gopi (Mason) for receiving such donations. It is submitted that the petitioner is a semi-illiterate person (not having completed his Matric). It is further submitted that the petitioner was unaware of any of the proceedings including the notice that proceeded the impugned order dated 23.12.2024, which has been passed under Section 147 read with Section 144 read with Section 144B of the Income Tax Act, 1961 by invoking the best judgment assessment principle. It is submitted that although the petitioner has filed an appeal before the Appellate Commissioner under Section 246A of the Income Tax Act, 1961, it is apprehended that the respondent may proceed to recover the amount and initiate coercive steps against the petitioner under the provisions of the Income Tax Act, 1961 and the Revenue Recovery Act as made applicable for recovering the tax dues confirmed under the impugned order.

5. The learned counsel for the petitioner would refer to the statement given by Shri Prakash, the Village President, on 11.04.2025 before the Commissioner of Income Tax (Appeals). That apart, the learned counsel for the petitioner has also drawn attention to an affidavit jointly signed by the devotees and donors, who had deposited the amount, which has now been treated as unexplained income of the petitioner under Section 69A of the Income Tax Act, 1961. It is further submitted that even though the actual deposit in the account was only Rs.62,92,548/-, the respondents have determined the total tax as Rs.1,25,85,098/-. It is, therefore, submitted that the impugned order has been passed in gross violation of the principles of natural justice and is liable to be quashed, although the petitioner has already preferred an appeal before the Appellate Commissioner.

6. On the other hand, the learned counsel for the respondents would submit that the writ petition is liable to be dismissed, since the petitioner has already approached the Appellate Commissioner under Section 246A of the Act. It is further submitted that records filed before this Court itself

reveals that the Appellate Commissioner has taken up the appeal and has recorded the statement from one Mr.Prakash, claiming himself to be the President of the Village. Hence, it is contended that the writ petition is liable to be dismissed.

7. The learned counsel for the respondents would further submit that there is no question of any violation of principles of natural justice as the petitioner did not co-operate with the Department. It is submitted that though the Verification Unit attached to the Income Tax Department had visited the Village and called upon the petitioner to file details of two accounts, details of only one account was filed and therefore, the petitioner does not deserve any sympathy. That apart, it is submitted that the petitioner has not filed any return of income, despite issuance of notice under Section 148 of the Income Tax Act, 1961. Further, it is submitted that the petitioner was issued with a Show Cause Notice on 06.11.2024, to which also, the petitioner has not responded.

8. Having considered the submissions made by the learned counsel for the petitioner and the learned counsel for the respondents, I am

inclined to dispose of this writ petition, taking note of the statement that has been filed before the Court namely the statement of the said Mr.Prakash, the President of the Village dated 11.04.2025 and the affidavit drawn on Rs.100/-, India Non Judicial Stamp Paper dated 18.08.2025, wherein they have vouched that the petitioner was merely a coolie along with one Gopi and that they had paid the amount only for renovation of the aforesaid temples namely Mariamman and Selliamma temples in Poondi Village, Vellore District. The petitioner having opted to file an appeal before the Appellate Commissioner, cannot simultaneously seek relief under Article 226 of the Constitution of India. Therefore, to that extent, this writ petition is liable to be dismissed.

9. However, considering the fact that no demand has been raised pursuant to the aforesaid impugned assessment order dated 23.12.2024 during the pendency of the appeal before the Appellate Commissioner before whom the statements have also been recorded and considering the fact that the Appellate Commissioner has also been empowered to remand cases back in view of the amendment to Section 251 of the Income Tax Act with effect from 01.10.2024, I am inclined to dispose of

this writ petition by directing the third respondent/Appellate Authority to dispose of the appeal on merits and in accordance with law as expeditiously as possible.

10. As far as the recovery of any tax due pursuant to the impugned order is concerned, it is for the petitioner to either invoke the jurisdiction of the first respondent in terms of the Circular issued under Section 119 of the Income Tax Act, 1961 or take advantage of the decision of the Hon'ble Supreme Court in the case of ***Principal Commissioner of Income Tax 5 and others., Vs. LG Electronics India Pvt. Ltd,*** *reported in* ***(2018) 18 SCC 447.***

11. This writ petition is disposed of with the above terms. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

22.09.2025

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

To

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C. SARAVANAN, J.

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