IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-10-2025

CORAM

THE HONOURABLE MR JUSTICE C. SARAVANAN

WP No. 39135 of 2025
AND
WMP NO. 43935 OF 2025,WP NO. 39139 OF 2025,WMP NO. 43925 OF 2025,WMP NO. 43926 OF 2025,WMP NO. 43932 OF 2025

1. Murugesan Deivathal
7/1 Kuttaiyur Street, Kurumbalayam,
Coimbatore, 641 107 Tamilnadu PAN
No. BZIPD8140A

Petitioner(s)

Vs

1. Income tax Officer
NonCorp Ward 3 (2) CBE coimbatore,
Tamil Nadu

2.Assessment Unit,
Income Tax Department, Ministry of
Finance

Respondent(s)

WP No. 39139 of 2025

1. Murugesan Deivathal
7/1 Kuttaiyur Street, Kurumbalayam,
Coimbatore, 641 107 Tamilnadu PAN

No. BZIPD8140A

Petitioner(s)

Vs

1. Income tax Officer

2.Assessment Unit,
Income Tax Department, Ministry of Finance

Respondent(s)

WP No. 39135 of 2025

PRAYER

calling for the records on the file of the 1st Respondent in Impugned notice issued under section 148 of the Income-tax Act, 1961 in DIN -Notice No ITBA/AST/S/148_1/2022-23/1042759290(1) dated 18.04.2022 and consequential assessment order passed under section 147 read with Section 144 of the Income Tax Act, 1961 in DIN -Order No ITBA/AST/S/147/2023-24/1063335512(1) dated 25.03.2024 in PAN BZIPD8140A for the Assessment Year 2015-16 and quash the same as barred by limitation and pecuniary jurisdiction and pass such order or further orders may deem fit and proper in the circumstances of the case and thus render justice.

WP No. 39139 of 2025

PRAYER

calling for the records on the files of the 2nd Respondent in PAN BZIPD8140A and quash the impugned order passed in DIN ITBA/PNL/F/271(1)(c)/2024-25/1069223511(1) dated 26.09.2024 passed u/s 271(1)(c) of the Income tax Act, 1961 for the Assessment Year 2015-16 as illegal and not in accordance with law and pass

WP No. 39135 of 2025

For Petitioner(s): G Vardini Karthik

For Respondent: Ms. M. Sheela
Senior Standing Counsel
and
Mr. H. Siddharth
Junior Standing Counsel

COMMON ORDER

Ms. M. Sheela, learned Senior Standing Counsel and Mr. H. Siddharth, learned Junior Standing Counsel learned Standing Counsels take notice for the Respondents.

2. By this Common Order, both the Writ Petitions are being disposed of at the time of admission after hearing the learned counsel for the Petitioner and learned Standing Counsels for the Respondents following the consistent view taken by this Court under similar circumstances.

3. In W.P.No.39135 of 2025, the Petitioner has challenged the impugned notice dated 18.04.2022 issued under Section 148 of the Income Tax Act, 1961 and the consequential assessment order dated 25.03.2024 passed under Section 147 read with Section 144 of the Income Tax Act, 1961. Thus, it is evident that the petitioner has not filed a reply to the notice that preceded the impugned order dated 25.03.2024.

4. In W.P. No.39139 of 2025, the petitioner has challenged the penalty order dated 26.09.2024 passed under Section 271 (1) (c) of the Income Tax Act, 1961. This dispute arises on account of the notice that was issued for the assessment year 2015-2016.

5. The petitioner appears to have received a part of the consideration from the sale of immovable property after the death of the petitioner's father. It is case of the petitioner that the petitioner is a semi-literate and that the petitioner was unaware of the proceedings. That apart, it is submitted that the petitioner's husband himself has suffered a health set back on account of paralytic stroke

and that the petitioner was unaware of the proceedings.

6. On merits, the learned counsel for the petitioner would submit that the issue is now squarely covered in terms of the decision of the Honourable Supreme Court in the case of ***Union of India Vs. Rajeev Bansal reported in 2024 (167) taxmann.com 70 (SC).*** Subsequently, a reference was made to paragraph No.114 of the Judgment to substantiate the legal defence.

7. The learned counsels for the respondent, on the other hand, would submit that although the petitioner failed to present in the proceedings, the petitioner has an alternative effective remedy before the Appellate Authority under Section 246 A of the Income Tax Act. It is further submitted that the Appellate Commissioner, is also empowered to condone the delay in filing the appeal under Section 246 A of the Income Tax Act, 1961.

8. That apart, it is submitted that the petitioner can move an appropriate application in case the petitioner is desirous of staying the operation of the

impugned assessment order dated 25.03.2024 and the penalty proceedings, pending disposal of the appeal in terms of Section 220 (6) of the Income Tax Act, 1961.

9. Although the learned counsel for the petitioner has made submissions on the basis of the ratio of the Honourable Supreme Court in the case of ***Union of India Vs. Ashish Aggarwal reported in 2022 SCC OnLine SC***, I am not inclined to dilate on the same at this stage, considering the fact that the order has been passed under Section 147 read with Section 144 of the Income Tax Act, 1961. Suffice it to state that the petitioner can be given one opportunity to explain the case afresh.

10. In these circumstances, the case is remitted back to the first respondent, Income Tax Officer to pass fresh orders on merits subject to the petitioner filing a detailed reply to the notice dated 18.04.2022 that preceded the impugned order dated 25.03.2024 within a period of thirty (30) days from the date of receipt of a copy of this order.

11. In case the Petitioner complies with the above stipulated conditions, the Respondents shall proceed to pass a fresh order *de novo* on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months thereafter. Subject to the Petitioner complying with the above stipulated conditions, the attachment of the bank account of the Petitioner shall also stand raised, if any.

12. In case the Petitioner fails to comply with any of the conditions stipulated above, the Respondents are at liberty to proceed against the Petitioner in accordance with law as if these Writ Petitions were dismissed *in limine* today. It is for the Respondents to take steps against the Petitioner to recover the tax that has been confirmed in the impugned Assessment Order.

13. Needless to state, before passing any such order, the Petitioner be heard.

14. It is made clear that the Petitioner shall co-operate with the Respondents in the *de novo* proceedings.

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

16-10-2025

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

WP No. 39135 of 2025

To

1.Income tax Officer
NonCorp Ward 3 (2) CBE coimbatore,
Tamil Nadu

2.Assessment Unit,
Income Tax Department, Ministry of
Finance

C.SARAVANAN J.

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