IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.42381 and 42387 of 2025
and
W.M.P.Nos.47363, 47368, 47376 and 47378 of 2025

Sujatha ... Petitioner in both W.Ps

Vs.

The Income Tax Officer,
Non-Corporate Ward 19(4) CHE,
Income Tax Department,
Chennai – 600 003. ... Respondent in both W.Ps

Prayer in W.P.No.42381 of 2025: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the Respondent in Assessment Order dated 28.03.2022 bearing DIN and Order No. ITBA/ASA/S/147/2021-2022/1041795536(1) for the Assessment Year 2013-2014, in respect of the Petitioner bearing PAN CWBPS3737H and quash the same as illegal, arbitrary and in violation of Principles of Natural Justice.

Prayer in W.P.No.42387 of 2025: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the Respondent in Penalty Order dated 22.09.2022 bearing DIN and Order No. ITBA/PNL/F/271(1)(C)/2022-2023/1045851261(1) for the Assessment Year 2013-2014, in respect of the Petitioner bearing PAN CWBPS3737H and quash the same as illegal, arbitrary and in violation of Principles of Natural Justice.

For Petitioner (In both W.Ps)	:	Mr.V.Manohar
For Respondent (In both W.Ps)	:	Mrs.S.Premalatha Senior Standing Counsel

COMMON ORDER

Mrs.S.Premalatha, learned Senior Standing Counsel takes notice for the Respondent.

2. These Writ Petitions are being disposed of at the time of admission with the

consent of the learned counsel for the Petitioner and the learned Senior Standing Counsel for the Respondent.

3. In W.P.No.42381 of 2025, the Petitioner is before this Court against the impugned Assessment Order dated 28.03.2022 passed by the Respondent for the Assessment Year 2013-2014.

4. The aforesaid impugned Assessment Order in itself records that despite the best efforts to serve notice on the Petitioner, the notice was returned with an endorsement “no such person at the address” on the postal cover.

5. It is in this background, the impugned Assessment Order dated 28.03.2022 has been passed by the Respondent under Section 147 read with Section 144 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”). The impugned Assessment

Order was preceded by a Notice dated 29.03.2021, issued under Section 148 of the Act.

6. It appears that the Petitioner has not filed Return of Income for the said Assessment Year and therefore the Petitioner has also failed to follow up the Notices that were served on the Petitioner, which were primarily posted in the Web Portal.

7. Learned counsel for the Petitioner would submit that the impugned Assessment Order dated 28.03.2022 was passed beyond the statutory period of limitation prescribed under Section 153 of the Act. The normal period of limitation of four years would have expired on 31.03.2018 and the extended period of limitation would have expired on 31.03.2020 under Section 153 of the Act.

8. The facts on record reveal that Section 148 Notice that was issued on 29.03.2021 is well within the period prescribed under Section 149 of the Act and in view of the Taxation and Other Laws (Relaxation & Amendment of Certain Provisions)

('TOLA') Act, 2020 extensions up to 30.06.2021.

9. The case of the Petitioner is that the Petitioner became aware of the impugned Assessment Order dated 28.03.2022 only after the Assessment Order came to be passed for the Assessment Year 2015-2016 on 26.03.2025.

10. It is stated that when the Petitioner was verifying the aforesaid order on the web portal, the Petitioner became aware of the impugned Assessment Order dated 28.03.2022 passed for the Assessment Year 2013-2014.

11. Learned counsel for the Petitioner submits that the Petitioner is a house wife and that the Petitioner's husband has been suffering from liver failure for the past several years and has undergone liver transplant during the month of May 2025, making it difficult for the Petitioner to take steps to redress the grievance against the impugned Assessment Order dated 28.03.2022.

12. Learned counsel for the Petitioner further submits that the Petitioner may be put to such reasonable terms, considering the fact that the Petitioner is non-filer of the Return of Income.

13. Learned Senior Standing Counsel for the Respondent on the other hand would submit that since the Petitioner failed to file the Return of Income, a Notice under Section 148 of the Act was issued on 29.03.2021 which also remains unserved and therefore in accordance with Section 282 of the Act, the Notice was affixed on the last known address of the Petitioner.

14. It is therefore submitted that the Petitioner may be given liberty to file an Appeal before the Appellate Authority under Section 246A of the Act although the impugned Assessment Order dated 28.03.2022 has been passed by following the best judgment method under Section 144 of the Act.

15. I have considered the submissions made by the learned counsel for the Petitioner and the learned Senior Standing Counsel for the Respondent.

16. Considering the averment in Paragraph No.8 of the Affidavit filed in support of the Writ Petition in W.P.No.42381 of 2025 and considering the fact that the Notice issued under Section 148 of the Act was indeed not physically served, despite the best efforts to serve the same on the Petitioner, balancing the interest of the Petitioner and the Revenue, the impugned Assessment Order dated 28.03.2022 is quashed and the case is remitted back to the Respondent to pass a fresh order.

17. Since the Petitioner has approached this Court only on 22.10.2025, the Petitioner is directed to pay 10% of the disputed tax amount in accordance to the computation as detailed in Section 156 of the Act. In other words, the Petitioner shall

deposit a sum of Rs.2,17,470/- within a period of thirty (30) days from the date of receipt of a copy of this order.

18. Subject to the Petitioner complying with the above condition, the Respondent shall proceed to pass a fresh order on merits from the stage of 148 Notice. There shall be a direction to the Respondent to issue a fresh Notice under Section 148A(1)(b) of the Act as in force with effect from 01.04.2023. The Petitioner shall thereafter give a reply to the aforesaid Notice.

19. In case the Petitioner complies with the above stipulations, the Respondent shall proceed to pass a final order on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months of such reply/pre-deposit. Subject to the Petitioner complying with the above stipulations, the attachment of the bank account of the Petitioner shall also stand automatically vacated.

20. Needless to state, before passing any such order, the Respondent shall give due notice to the Petitioner.

21. In case the Petitioner fails to comply with any of the stipulations, the Respondent is at liberty to proceed against the Petitioner to recover the tax in accordance with law as if this Writ Petition was dismissed *in limine* today.

22. Therefore, W.P.No.42381 of 2025 stands disposed of with the above observations.

23. In view of the above, the Writ Petition in W.P.No.42387 of 2025 is allowed with liberty to initiate separate proceedings at appropriate time. No costs.

Connected Writ Miscellaneous Petitions are closed.

05.11.2025

Neutral Citation : Yes / No

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To:

The Income Tax Officer,
Non-Corporate Ward 19(4) CHE,
Income Tax Department,
Chennai – 600 003.

C.SARAVANAN, J.

arb

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and

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For Petitioner : Mr.V.Manohar
(In both W.Ps)

For Respondent : Mrs.S.Premalatha
(In both W.Ps) Senior Standing Counsel

COMMON ORDER

These cases are listed today under the caption “For Being Mentioned” at the instance of the learned Senior Standing Counsel for the Respondent.

2. The learned Senior Standing Counsel for the Respondent would submit that there is a typographical error in Paragraph No.18 of the order dated 05.11.2025 passed in these Writ Petitions. It is submitted that in the fourth line, instead of “Section 142(1) of the Act” it has been wrongly mentioned as “Section 148A(1)(b) of the Act” and therefore, suitable changes may be incorporated in Paragraph No.18 of the order.

3. Recording the aforesaid submission of learned Senior Standing Counsel for the Respondent and hearing the learned counsel for the Petitioner, Paragraph No.18 of the order dated 05.11.2025 shall be amended as under:-

> "18. Subject to the Petitioner complying with the above condition, the Respondent shall proceed to pass a fresh order on merits from the stage of 148 Notice. The Respondent may issue Notices under Section 142(1) of the Act. The Petitioner shall co-operate with the Respondent."

4. Accordingly, Paragraph No.19 of the order dated 05.11.2025 shall also be modified as follows:-

> "19. As long as the Petitioner complies with the above stipulations, the Respondent shall proceed to pass a final order on merits and in accordance with law as expeditiously as possible, preferably, within a period of three (3) months of such reply/pre-deposit. Subject to the Petitioner complying with the above stipulations, the attachment of the bank account of the Petitioner shall also stand automatically vacated. In case, the Petitioner fails to co-operate with the Respondent, the Respondent is at liberty to pass such order based on the available materials with them."

5. All other observations in the earlier order dated 05.11.2025 remain unaltered.

6. The Registry is directed to carryout the necessary corrections and issue order copy afresh.

27.11.2025

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<u>To</u>:

The Income Tax Officer,
Non-Corporate Ward 19(4) CHE,
Income Tax Department,
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C.SARAVANAN, J.

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