BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.07.2025**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No. 16362 of 2025
and
W.M.P.(MD) Nos.12444, 12447 & 13634 of 2025

S.Chenthilkumar (Kartha) of
S.Chenthilkumar (HUF) ... Petitioner

Vs

1. The Principal Commissioner of Income Tax,
Officer of the Principal Commissioner of Income Tax,
Jurisdicational Central Revenue Building,
V.P. Rathinasamy Nadar Road,
B.B.Kulam, Madurai.

2. Deputy Commissioner of Income Tax,
Circle 1, Income Tax Office,
Williams Road, Cantonment,
Trichy 620001. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records in ITBA/COM/F/17/2024-25/1073979971(1), dated 04.03.2025 on the file of second respondent Deputy Commissioner of Income Tax Circle 1 (1), Trichy demanding tax amount of Rs.4,35,70,590/- relating to the assessment year 2011-2012 and 2017-2018 and quash the same as illegal, ultra-vires, unconstitutional and against equity and in consequence restraining the respondents from proceeding further from taking coercive action in any manner against the petitioner.

For petitioner	: Mr. V.Ragavachari Senior Consel for Mr.S.Ramesh
For respondents	: Mr.N.Dilip Kumar Senior Standing Counsel

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ORDER

This Writ Petition is disposed of at the time of admission with the consent of the learned Senior Counsel for the petitioner and learned Senior Standing Counsel for the respondents.

2. The petitioner, as the HUF, representing partner of the A.S.R.M.Subbaiah Pillai Partnership Firm, which was started in the year 1943, is before this Court against the impugned communication, dated 04.03.2025 issued under Section

188A of the Income Tax Act, 1961. Relevant portion of the impugned communication reads as under:

> *“M/s.A S RM Subbish Pillai (PAN AAAFA93829) assessed under the Deputy Commissioner of Income Tax, Circle-1(1), Trichy is having the arrears of Income Tax amounting to Rs.4,35,70,590/- as on date relating to the A.Y’s. 2011-12, and 2017-18.*
>
> *As you are/were partners of the said assessee firm, it is proposed to hold you jointly and severally liable for the said arrears of tax amounting to Rs.4,35,70,590/- u/s 188A of the Income Tax Act, 1961.*
>
> *You are given opportunity to represent your case within 07 days from the date of receipt of this letter failing which proceedings for the recovery of the said arrears of tax will be initiated.”*

3. In the background is a long standing dispute between the descendants of A.S.R.M.Subbaiah Pillai and one T.Vaithilingam and his son V.Ravindran. It appears that the petitioner and the members of the petitioner’s family have been ousted out of the business and therefore, the proceedings came to be initiated by issuance of notice for arbitration under Section 21 of the Arbitration and Conciliation Act, 1996.

4. The petitioner, along with other members of the family had also approached the Civil Court under Section 9 of the Arbitration and Conciliation Act, 1996 in O.P.No.27 of 2014 for certain relief as interim measure, which came to be ordered on 19.03.2015. The said order was also appealed before this Court in C.M.A.(MD)No.492 of 2015, which came to be disposed of on 24.07.2015 by dismissing the aforesaid appeal filed under Section 37 of the Arbitration and Conciliation Act, 1996 filed by the said T.Vaithilingam and his son V.Ravindran. During the interregnum, an Arbitrator was appointed in terms of the Arbitration Clause of the Partnership Deed, pursuant to which a detailed award has been passed by the learned Arbitrator on 08.09.2018.

5. The learned Senior Counsel for the petitioner submits that a reading of the award will indicate that right from 2013, none of the other partners had any income from the partnership firm, as the father and son, namely, T.Vaithilingam and V.Ravindran had excluded the descendents of Late.A.S.R.M.Subbaiah Pillai.

6. The learned Senior Counsel has taken the Court to the observations of the learned Arbitrator in the award, dated 08.09.2018.

7. That apart, it is submitted that they has started several other concerns and have purchased the properties, which are to be recovered. It is further submitted that even if there is a liability on the partnership firm for the period specified in the impugned notice issued under Section 188A of the Income Tax Act, 1961, the Income Tax Department ought to recover the same from the duo instead of troubling the petitioner and others, who are the sleeping partners, without any income from the business of the partnership firm.

8. The affidavit filed in support of the Writ Petition seems to indicate that there are about nine partners, which includes the T.Vaithilingam and his son V.Ravindran. The names of the partners as per the affidavit filed in support of this Writ Petition are as under:

1.S.Chandrasekaran, S/o.P.R.Subbiah Pillai
2.S.Selvaraj, S/o.P.R.Subbiah Pillai
3.S.Pathamanathan, S/o.P.R.Subbiah Pillai
4.T.Vaithilingam, S/o.Thevaraya Pillai
5.P.Vijayaraghavan, S/o.S.Periyasamypillai
6.V.Ravindran, S/o.T.Vaithilingam
7.S.Chenthilkumar, S/o.Sathasivam
8.A.Jeyanthi, W/o.B.Arunasalam
9. S.Balamurugan, S/o.S.Shanmugam.

9. It appears that in response to the impugned notice issued under Section 188A of the Income Tax Act, 1961, the petitioner has also replied on 14.03.2025. However, no orders have been passed.

10. Having considered the submissions made by the learned Senior Counsel for the petitioner and learned Senior Standing Counsel for the respondents and taking note of the above facts, the Court is inclined to dispose of this Writ Petition with the consent of the learned Senior Counsel for the petitioner and learned Senior Standing Counsel for the respondents by directing the second respondent to pass appropriate orders on the petitioner’s reply, dated 14.03.2025. Since liability is joint and several under the Indian Partnership Act, 1932, the Income Tax arrears shall also make an endeavour to recover the arrears from the father and son, namely, T.Vaithilingam and V.Ravindran, against whom the petitioner and other partners have secure a favourable award from the learned Arbitrator on 08.09.2018.

11. Needless to state, before passing the final order, the notice shall also be issued to the father and son, namely, T.Vaithilingam and V.Ravindran.

12. This exercise shall be completed within a period of six (6) months from the date of receipt of a copy of this order. Pending such exercise, all further coercive shall be kept in abeyance against the petitioner.

13. This Writ Petition is disposed of, with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

10.07.2025

Index : Yes / No
Internet : Yes / No
apd

To

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C.SARAVANAN, J.

apd

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