BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.07.2025

CORAM

THE HON'BLE MR.JUSTICE C. SARAVANAN

W.P.(MD) Nos.18064 & 18609 of 2025
and
W.M.P.(MD) Nos.13856, 13858, 14267 & 14268 of 2025

S.Pushpa ... Petitioner in W.P.(MD) No.18064/25

C.Vijayamanohari ... Petitioner in W.P.(MD) No.18609/25

Vs.

1.The Principal Commissioner of Income Tax,
Office of the Principal Commissioner of Income Tax - Jurisdictional Central Revenue Building,
No.2, V.P.Rathinasamy Nadar Road,
Bibikulam, Madurai - 625 002.

2.Deputy Commissioner of Income Tax,
Circle 1(1), Income Tax Office,
Williams Road, Cantonment,
Tiruchirappalli - 620 015.

3.Tax Recovery Officer,
Income Tax Department,
TRO - 1, Central Revenue Building,
No.2, V.P.Rathinasamy Nadar Road,
Bibikulam, Madurai - 625 002.

3.N.Kala Rathinam

4.V.Ravindran

5.V.Vijayalakshmi ... Respondents in both W.Ps.

COMMON PRAYER : Writ Petitions filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records in ITBA/COM/F/17/2024-25/1067403032(1), dated 07.08.2024 and in ITBA/COM/F/17/2024-25/1072909427(1), dated 04.02.2025 respectively on the files of the second respondent, Deputy Commissioner of Income Tax Circle 1(1), Trichy demanding tax amount of Rs.6,95,72,510/- (Rupees Six Crores Ninety Five Lakhs Seventy Two Thousand Five Hundred and Ten only) relating to the Assessment Year 2017-2018 and quash the same as illegal, ultra-vires, unconstitutional and against equity and consequently restrain the respondents from proceeding further from taking coercive action from any manner against the respective petitioners.

For Petitioner in both W.Ps. : Mr.V.Ragavachari, Senior Counsel for Mr.S.Ramesh

For R1 to R3 in both W.Ps. : Mr.N.Dilip Kumar Senior Standing Counsel

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COMMON ORDER

By this common order, both these Writ Petitions are being disposed of, at the admission stage, after hearing the learned Senior Counsel for the respective petitioners and the learned Standing Counsel for the first to third respondents and after dispensing with the notice on the private respondents i.e, the fourth to sixth respondents herein, as no adverse orders are proposed to be passed against them.

2. These Writ Petitions have been filed challenging the impugned orders dated 07.08.2024, bearing reference DIN and Order No. ITBA/COM/F/17/2024-25/1067403032(1), and dated 04.02.2025, bearing reference DIN and Order No. ITBA/COM/F/17/2024-25/1072909427(1), passed by the second respondent, the Deputy Commissioner of Income Tax, Circle 1(1), Trichy, demanding a tax amount of Rs.6,95,72,510/- (Rupees Six Crores Ninety-Five Lakhs Seventy-Two Thousand Five Hundred and Ten only) for the Assessment Year 2017–2018, and seeking a consequential prayer to restrain the respondents from taking any coercive action of any nature against the respective petitioners.

3. The respective petitioners are partners of a firm called 'Ravindra Stores', against which there are outstanding tax liabilities. Since the petitioners are partners of the aforesaid firm, they have been proceeded against under Section 188A of the Income Tax Act, 1961, *vide* the impugned orders.

4. Section 188A of the Income Tax Act, 1961 mandates that a person who was a partner of a firm during the previous year, and the legal representative of any such person who is deceased, shall be jointly and severally liable, along with the firm, for the amount of tax, penalty, or other sum payable by the firm for the assessment year to which such previous year is relevant. All the provisions of the Act, in so far as may be applicable, shall apply to the assessment of such tax or the imposition or levy of such penalty or other sum.

5. As far as the case of the petitioner in W.P.(MD) No.18064 of 2025, Mrs.S.Pushpa, is concerned, she is aged about 77 years as per the affidavit filed in support of the Writ Petition. The impugned order dated 07.08.2024, passed under Section 188A of the Income Tax Act, 1961, was preceded by a notice dated 06.03.2024 for recovery of arrears of tax.

However, a *post facto* reply was sent by the petitioner on 09.09.2024, calling for details of the assessment order, wherein she also referred to the Judgment and Decree dated 22.01.2024 secured by her and others in O.S. No.668 of 2020, on the file of the II Additional Subordinate Court, Tiruchirapalli, against the Managing Partners and other Partners of the partnership firm, 'Ravindra Stores'. It is submitted that the petitioner has no means and is ailing with several age-related geriatric problems.

6. As far as the case of the petitioner in W.P.(MD) No.18609 of 2025, Mrs.Vijaya Manohari, is concerned, she is also a senior citizen aged about 85 years, as per the affidavit filed in support of this Writ Petition. In her case, the impugned order dated 04.02.2025, passed under Section 188A of the Income Tax Act, 1961, was preceded by a notice dated 05.09.2024 demanding arrears of tax. The petitioner responded to the said notice on 09.09.2024. However, the impugned order dated 04.02.2025 records that the petitioner had not responded to the notices.

7. The notice dated 05.09.2024, which was issued to the petitioner proposing to pass an order under Section 188A of the Income Tax Act, 1961, was preceded by an assessment order dated 29.12.2019 passed

under Section 144 of the Income Tax Act, 1961, i.e., under the best judgment assessment method, as the said assessment order would have been preceded by a notice.

8. That apart, it appears that the petitioners have been excluded from the affairs of the partnership by taking advantage of their age. Consequently, the petitioners filed a suit in O.S.No.668 of 2020 before the II Additional Subordinate Court, Tiruchirapalli, for dissolution of the partnership. A partial decree dated 22.01.2024 was passed, dissolving the partnership firm, 'Ravindra Stores', and the petitioners were granted liberty to work out their remedies under Order XX Rule 12 of the Code of Civil Procedure.

9. Considering the fact that the petitioners were partners, particularly during the period in dispute, though they are stated to have been sleeping partners, they may be liable for the tax liabilities incurred by the partnership firm, notwithstanding the fact that the said partnership firm has been dissolved by virtue of the Judgment and Decree dated 22.01.2024 passed in O.S.No.668 of 2020 on the file of the II Additional Subordinate Court, Tiruchirapalli.

10. It is always open to the petitioners to work out their remedies against the other partners for discharging the tax liabilities of the firm. Considering the fact that the petitioners are aged and have no means to pay the amount immediately, this Court is inclined to grant partial relief by keeping the implementation of the orders dated 07.08.2024 and 04.02.2025 impugned in these Writ Petitions in abeyance for a period of two months from today.

11. It is made clear that the impugned orders dated 07.08.2024 and 04.02.2025 shall be kept in abeyance only insofar as the respective petitioners alone are concerned.

12. The respective petitioners are at liberty to move suitable application for revising the orders in the manner known to law under Section 264 of the Income Tax Act, 1961. It is also open for the respective petitioners to challenge the assessment order dated 29.12.2019 passed for the Assessment Year 2017-2018, if so advised.

13. In the result, these Writ Petitions are disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

10.07.2025

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes/No

To

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C.SARAVANAN, J.

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