BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **05.08.2025**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No. 21261 of 2025
and
W.M.P.(MD) Nos.16417 & 16420 of 2025

Marimuthu ... Petitioner

Vs

The Income Tax Officer / Assessing Officer,
Ward 1,
Theni,
Income Tax Office at 74-74A,
White House Street,
NRT Nagar,
Theni,
Tamil Nadu - 625 531. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for records pertaining to the proceedings of the respondent passed in Assessment Order *vide* No.ITBA/AST/S/147/2024-2025/1074519028(1) issued to the petitioner under Section 147 read with Section 144 of the Income Tax Act, 1961 for the assessment year 2016-17 in PAN - BMBPM8289F dated on 15.03.2025 and to quash the same and consequently, direct the respondent to afford a chance to the petitioner to given clear explanation to the show cause notice and condone the delay to file the income tax returns for the assessment year 2016-17.

For petitioner : Mr. V.S.Ariharasudhan

For respondent : 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 counsel for the petitioner and learned Senior Standing Counsel for the respondent.

2. This Writ Petition has been filed by the petitioner against the impugned Assessment Order in No.ITBA/AST/S/147/2024-2025/1074519028(1), dated 15.03.2025 under Section 147 r/w 144 of the Income Tax Act, 1961.

3. The petitioner appears to have transacted a sale of immovable property for a sum of Rs.60,96,465/-, though in the preamble to the sale deed, the value has been shown as Rs.16,50,000/- and coming to know about the same, the petitioner was issued with the notices. However, the petitioner sought time

repeatedly and ultimately, on the verge of limitation prescribed in passing Assessment Order under Section 153 of the Income Tax Act, 1961, the respondent has proceeded to pass the Assessment Order, failing which the assessment proceedings would have lapsed.

4. The learned counsel for the petitioner submits that the petitioner was unaware of the notices issued to the petitioner. However, the aforesaid submission of the petitioner appears to be incorrect in as much as the petitioner had indeed participated in the proceedings which preceded the impugned order, the details of which captured in the impugned order read as under:

List of opportunities provided:-

Sl.No	Type of notice	Date of issue / Date of Compliance	DIN (Document Identification Number)	Delivery details	Remarks
1	Notice u/s 142(1)	12/12/2024 27/12/2024	ITBA/AST/F/142(1)/2024-25/1071127403(1)	Duly served on the assessee by post.	Submitted adjournment request of 15 days on 27/12/2024. But further no submission.
2	Notice u/s 142(1)	08/02/2025 18/02/2025	ITBA/AST/F/142(1)/2024-25/1073053917(1)	Duly served on the assessee by post.	Only part reply submitted on 13/02/2025. Submitted only copy of sale deed document number – 5767/2009 dated 16/10/2009 and copy of general power of attorney vide document number – 128/2011 dated 14/02/2011.
3	SHOW CAUSE NOTICE u/s 144	23/02/2025	ITBA/AST/F/144(SCN)/2024-25/1073608345(1)	Duly served on the assessee by post.	Requested one month time. The proceeding is getting time barred by

		10/03/2025			31/03/2025 the assessee request for adjournment is hereby rejected.

5. Thus, it cannot be said that the petitioner was denied an opportunity of being heard. Therefore, this Writ Petition has to fail, as no fault can be attributed on the respondent in passing the impugned Assessment Order. The petitioner has to work out the remedy, if any, before the Appellate Commissioner under Section 246A of the Income Tax Act, 1961, which is wide enough to look into the issue on merits.

6. Considering the same, this Writ Petition is disposed of with a liberty to file an appeal under Section 246A r/w 249 of the Income Tax Act, 1961 to formally condone the delay petition within a period of 30 days from the date of receipt of a copy of this order. In case such an appeal is filed together with the formally condone delay application, the Appellate Authority shall number the appeal and dispose of the same on merits without further reference to the limitation.

7. Needless to state, in case the petitioner desires any interim protection, the petitioner may move a suitable application before the respondent under Section 220(6) of the Income Tax Act, 1961.

8. This Writ Petition stands disposed of, with the above liberty. No costs. Consequently, connected miscellaneous petitions are closed.

05.08.2025

Index : Yes / No
Internet : Yes / No
apd

To
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C.SARAVANAN, J.

apd

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