BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD)No.21212 of 2025
and
W.M.P.(MD)Nos.16373 and 16374 of 2025

S.Sugarno,
The President,
Malick Dhinar Baithulmal,
Pon Arippu Street, Kottar Post,
Nagercoil - 629 002. ... Petitioner

-vs-

Government of India,
Ministry of Finance,
Rep. by its Income Tax Officer,
Income Tax Department,
Ward No.1, Nagercoil,
Kanyakumari District. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the respondents Impugned Assessment Order in DIN No.ITBA/AST/S/147/2024-25/1072653169(1) along with Computation Sheet and Notice of Demand u/s. 156 of IT Act in DIN No.ITBA/AST/S/156/2024-25/1072653288(1), dated 29.01.2025, demanding outstanding of Rs.1,85,27,540/- for Assessment Year 2019-2020 and quash the same as devoid of merits, consequently, directing the respondent to entertain the appeal to be filed by the petitioner u/s. 246 of the Income Tax Act, 1961 after collecting relevant records from the previous regime of Malik Dinar Baithumal Jamath in continuation of the proceeding of the RDO, Nagaercoil, in No.A3/6996/2022, dated 17.10.2023, by considering the petitioner's representation dated 07.06.2023, within the period to be stipulated by this Court.

For Petitioner : Mr.A.Haja Mohideen

For Respondent : Mr.J.Parekh Kumar
Senior Standing Counsel

ORDER

The petitioner has challenged the impugned order dated 29.01.2025, passed by the respondent / Income Tax Officer under Section 147 read with Sections 144 and 144B of the Income Tax Act, 1961 (hereinafter referred to as "the Act").

2. It is the case of the petitioner that there is an *inter se* dispute between the elected members, who were elected on 20.10.2021 for a period of five years and the previous Committee Members, who have refused to hand over the relevant details and records. As a result, the petitioner was unable to file the return for the Assessment Year 2019 – 2020.

3. It is submitted that steps have been initiated to retrieve the records and several collateral proceedings are ongoing. Although the petitioner was served with notices prior to the passing of the impugned order, he was unable to produce the relevant materials due to the non-cooperation of the previous incumbent of the Waqf, namely, Malick Dhinar Baithulmal, Nagercoil.

4. The learned Senior Standing Counsel for the respondent, however, submits that the petitioner is not without remedy and may avail the appellate remedy under Section 246A of the Act, along with an application for condonation of delay under Section 249 of the Act.

5. Upon perusal of the impugned order and the materials placed before this Court, I am of the view that the petitioner deserves an opportunity to put forth his case.

6. The learned counsel for the petitioner submits that the petitioner will prepare to file a detailed reply to the notices that preceded the impugned order, along with supporting documents, within a period of three months from the date of receipt of a copy of this order.

7. Considering the existence of ongoing disputes and the peculiar facts of the case, this Court is inclined to accept the above submission.

8. Accordingly, the impugned order dated 29.01.2025 is quashed and the matter is remitted back to the respondent for fresh consideration. The impugned order shall be treated as an addendum to the notice that preceded it.

9. The petitioner shall file a detailed reply and submit all the relevant documents within a period of three (3) months from the date of receipt of a copy of this order. Upon receipt of the same, the respondent shall pass a fresh order on merits and in accordance with law, within a further period of three (3) months. Needless to state, the petitioner shall be afforded an opportunity of personal hearing before final orders are passed.

10. The petitioner is also directed to extend full cooperation to the respondent during the proceedings. In the event of non-cooperation or failure to file the reply within the stipulated period, it shall be open to the respondent to confirm the demand as proposed in the impugned order.

11. This Writ Petition stands disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes / No **04.08.2025**
Index : Yes / No
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To:-

The Income Tax Officer,
Government of India,
Ministry of Finance,
Income Tax Department,
Ward No.1, Nagercoil,
Kanyakumari District.

C.SARAVANAN, J.

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W.P.(MD)No.21212 of 2025

04.08.2025