BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.08.2025**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No. 21844 of 2025
and
W.M.P.(MD) Nos.16955 & 16956 of 2025

S. S. Traders,
rep. by it's Proprietor Ameerkhan ... Petitioner

Vs

1. The Commissioner of Income Tax,
Circle -II,
Office of the Commissioner of Income Tax,
Tirunelveli District.

2. The Assistant Commissioner of Income Tax,
Circle I,
Office of the Assistant Commissioner of Income Tax,
Tirunelveli District.

3. The Deputy Commissioner,
Circle I,
Office of the Deputy Commissioner of Income Tax
Thoothukudi District.

4. The Income Tax Officer,
Income Tax Department,

Ward No I
Thoothukudi District. ... 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 pertaining to the impugned order in 11.02.2025 in ITBA/AST/S/147/2024-25/1073172765(1), passed by the fourth respondent, quash the same as void and illegal and consequently, direct the fourth respondent not to impose penalty and interest on the basis of the documents submitted by the petitioner along with material evidences available.

For petitioner	: Mr. Char Murugan for M/s.Char Murugan Law Associate
For respondents	: Mr. J.Parekh 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 the learned Senior Standing Counsel for the respondents.

2. The petitioner is aggrieved by the impugned Assessment Order, dated 11.02.2025. The order has been passed under Sections 147 r/w 144 and 144B of

the Income Tax Act, 1961. The impugned order has been passed pursuant to the notice, dated 20.08.2024 issued under Section 142 of the Income Tax Act, 1961.

3. A reading the impugned order indicates that the petitioner was called upon to furnish the documents which the petitioner failed to furnish and therefore, the petitioner has suffered the impugned order, as the fourth respondent was compelled to invoke Section 144 of the Income Tax Act, 1961.

4. It is submitted that the impugned order was passed by the fourth respondent as otherwise the assessment would have lapsed in view of limitation under the Income Tax Act, 1961.

5. Having considered the arguments advanced by the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents, it is evident that the petitioner has an alternative remedy under Section 246A of the Income Tax Act, 1961 along with an application for condoning the delay under Section 249(3) of the Income Tax Act, 1961.

6. Be that as it may, the petitioner is willing to file the required documents,

the Court is inclined to come to the rescue of the petitioner by quashing the impugned order and remitting the case back to the fourth respondent to pass fresh orders on terms subject to the petitioner depositing 15% of the disputed tax within a period of thirty (30) days from the date of receipt of a copy of this order.

7. Within such time, the petitioner shall upload the reply and documents which were not furnished by the petitioner, which has to be resulted in the impugned order, dated 11.02.2025 pursuant to the aforesaid notice.

8. In case the petitioner complies with the above stipulations, the fourth respondent shall pass a fresh order on merits as expeditiously as possible, preferably within a period of three (3) months thereafter.

9. It is made clear that in case the petitioner fails to comply with any of the above stipulations, the respondents are at liberty to proceed against the petitioner as if this Writ Petition was dismissed *in limine* today.

10. This Writ Petition is disposed of, with the above observations. No costs.

Consequently, connected miscellaneous petitions are closed.

11.08.2025

Index : Yes / No
Internet : Yes / No
apd

To

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Ward No I
Thoothukudi District.

C.SARAVANAN, J.

apd

W.P.(MD) No. 21844 of 2025

11.08.2025