



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 06-02-2026**

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**THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY**

**WP No. 2744 of 2022**

**&**

**WMP Nos.2905, 2906, 2907 & 2908 of 2022**

M/s.Anantara Solutions Private Limited,  
7B, 7TH Floor, KG 360 IT Business,  
Park Plot No. 41, No. 232/1, MGR Salai,  
North Veeranam Salai, Perungudi, Chennai 600  
096 Represented by its Whole-Time Director Mr.  
Sundararaj Subbarayalu

..Petitioner(s)

Vs

1.Additional / Joint / Deputy / Assistant  
Commissioner of Income Tax / Income Tax  
Officer, National Faceless assessment Centre,  
Delhi

2.Deputy commissioner of Income Tax,  
Corporate Circle 1(1), 121 M.G.Road,  
Nungambakkam, Chennai 34.

..Respondent(s)

**PRAYER:** This writ petition is filed under Article 226 of the Constitution of India seeking for issuance of Writ of Certiorari, calling for records of the case on the file of Respondents and quash the Impugned Notice u/s. 148 of the Act dated 29.03.2021 for the Assessment year 2015-16 in DIN and Notice No. ITBA/AST/S/148 2020-21 /1031866907(1) and the consequential proceedings dated 01.12.2021 in DIN and Letter No. ITBA / AST / F /142(1) / 2021-22 / 1037411882(1) rejecting the objections raised by the petitioner.



For Petitioner(s):

M/s.Vikram Vijayaraghavan  
R.Venkatanarayanan, R.Vijayaraghavan for M/s.  
Subbaraya Aiyar, Padmanabhan &  
Ramamani

For Respondent(s):

M/s. B. Ramana Kumar, Senior Standing  
Counsel

### **ORDER**

In respect of assessment year 2015-16, an assessment order was issued on 29.12.2017. Subsequently, the Income-tax Department initiated action for reopening the assessment by issuing notice under Section 148 of the Income Tax Act (the I-T Act) on 29.03.2021. The petitioner replied on 24.06.2021 enclosing a copy of the earlier filed return of income and also requested for reasons for reopening the assessment. Notice under Section 143(2) read with Section 147 was issued thereafter on 30.06.2024 calling for a response in respect of alleged set off in respect of carried forward loss, undervaluation of shares or alternatively repayment from and out of the securities premium account being treated as deemed dividend. The petitioner responded on 13.07.2021 to all the issues and submitted that there was no justification for reopening. Overruling such objections, order dated 01.12.2021 was issued and notice under Section 142(1) was issued also issued on even date. Notices under Section 148 and 142(1) are challenged in the present writ petition

### **Contentions of counsel**

2. Learned counsel for the petitioner submits that a petition seeking sanction for reduction of share capital was filed during the relevant period in



Company Petition No.321 of 2014 before this Court. He submits further that said petition was allowed by order dated 06.11.2014 and that the minutes were drawn up as a part of such order. Referring to the order, he points out that it clearly records that payment was being made to the six shareholders mentioned therein at the rate of Rs.76.98/- per equity share by utilising amounts available in the securities premium account as on 31.03.2014. He also points out that there was extensive exchange of correspondence between the petitioner and the Income-tax Department, as part of a scrutiny assessment, prior to the issuance of the assessment order dated 29.12.2017 in respect of such reduction of capital. He refers to the response from the petitioner on 24.11.2017, wherein, in response to notice dated 08.06.2017, the petitioner provided a copy of the ledger account for capital reduction during the financial year 2014-15 and stated categorically that an amount of Rs.72,71,530/- was paid off during the financial year and that a capital reduction letter had been obtained from the Ministry of Corporate Affairs.

3. He also referred to the letter dated 28.11.2017 from the petitioner to the Income-tax Department, particularly the response to Point No.5 relating to large outward remittances. He points out that it was stated by the petitioner that large outward remittances were on account of capital reduction during the year and that the petitioner enclosed copies of three remittance certificates in respect of repayment to the capital investors. He also referred to letter dated 27.12.2017



with regard to the applicability of Section 115QA of the I-T Act and to the particulars provided as an annexure to the letter. He points out that all material particulars pertaining to payments made to the shareholders, whose share capital was paid off by the company, are mentioned therein. He refers to the relevant share certificates which were also annexed thereto. In fact, learned counsel also points out that even in the original scrutiny assessment, as is evident from communication dated 02.08.2016, details regarding the shareholding percentage and dividend distribution tax paid during the year had been provided upon request.

4. Given the full and complete disclosure made by the petitioner prior to the issuance of the original assessment order, learned counsel submits that the Income-tax Department's decision to re-open the assessment after the lapse of more than four years from the end of the relevant assessment year contravenes the first proviso to Section 147 of the I-T Act as it stood then. He contends that the proviso makes it clear that reopening after the expiry of four years may only be done if warranted by reason of the failure on the part of the assessee to do one of the following: file a return under Section 139 or in response to a notice under either Section 142(1) or Section 148 or otherwise fail to disclose fully and truly all material facts necessary for assessment for the year. According to him, the assessee's conduct does not justify reopening on any these criteria.



5. He placed reliance on the order dated 21.08.2024 of this Court in *Redington (India) Limited v. Additional/Joint/Deputy/Assistant Commissioner of Income-Tax/Income-tax Officer and another*, W.P.Nos.4726 to 4730 of 2022, wherein he submits that this Court relied on the judgments of the Supreme Court in *Commissioner of Income-Tax v. Kelvinator of India Limited*, (2010) 320 ITR 0561 and *Commissioner of Income-tax v. ICICI Securities Primary Dealership Ltd.*, (2012) 24 taxmann.com 310 (SC), to conclude that the reassessment proceedings were a result of change of opinion. Learned counsel submits that the petitioner herein is on a stronger wicket.

6. By referring to the notice under Section 142(1) and the rejection of the petitioner's objections, learned counsel submits that reassessment is not justified merely because the Income-tax Department received information from the Investigation Wing. He also points out that the issues raised in the notice under Section 142(1) do not justify reassessment even assuming without admitting that the Income-tax Department is in a position to overcome the high bar set in the first proviso to Section 147. For instance, he submits that an issue has been raised with regard to set off of loss allowable as per Section 79 of the I-T Act. He submits that no set off of loss was claimed during the relevant assessment year and that the reference to Section 79 is not relevant. Likewise, he submits that Section 56(2)(x) of I-T Act was not a part of the I-T Act during the relevant period. As regards Section 2(22), he submits that it pertains to accumulated



profits being deemed as dividend, whereas the repayment to shareholders was made out of the securities premium account and not from accumulated profits.

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7. In response to these contentions, Mr.Ramana Kumar, learned senior standing counsel, invited my attention to Explanation 1 to Section 147 as it stood then. He submits that the production of books of account or other evidence from which material evidence could have been discovered by the assessing officer by exercise of due diligence does not amount to disclosure within the meaning of the proviso. Therefore, he submits that the petitioner is not justified in resisting the reassessment proceedings merely because some information relating to the reduction of share capital had been disclosed in course of the earlier scrutiny assessment. In particular, he submits that the valuation report had not been provided by the petitioner during the original assessment proceedings. He also submits that there has been a substantial outflow to non-resident shareholders and that it is always open to the petitioner to participate in the reassessment proceedings and explain as to why no income has escaped assessment. In fact, he submits that the petitioner initially participated in proceedings under Section 147 before approaching this Court.

**Discussion, analysis & conclusion:**

8. Upon consideration of the rival contentions, the primary question that falls for consideration is whether the Income-tax Department was justified in



reopening the assessment. The relevant assessment year is 2015-16. The said assessment year ended on 31.03.2016. The notice under Section 148 was issued on 29.03.2021. Undoubtedly, therefore, such notice was issued after the expiry of four years from the end of the relevant assessment year. Against this factual backdrop, it is necessary to examine Section 147 as it stood then. In relevant part, Section 147 was as under:

*"147. **Income escaping assessment:** If the Assessing Officer has reason to believe that any income chargeable to tax has escaped assessment for any assessment year, he may, subject to the provisions of sections 148 to 153, assess or reassess such income and also any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under this section, or recompute the loss or the depreciation allowance or any other allowance, as the case may be, for the assessment year concerned (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year):*

***Provided that where an assessment under sub-section (3) of section 143 or this section has been made for the relevant assessment year, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any income chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 139 or in response to a notice issued under sub-section (1) of section 142 or section 148 or to disclose fully and truly all***



***material facts necessary for his assessment, for that assessment year:***

*Provided further that nothing contained in the first proviso shall apply in a case where any income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment for any assessment year:*

*Provided also that the Assessing Officer may assess or reassess such income, other than the income involving matters which are the subject matters of any appeal, reference or revision, which is chargeable to tax and has escaped assessment.*

***Explanation 1-Production before the Assessing Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not necessarily amount to disclosure within the meaning of the foregoing proviso.”***

9. The first proviso to Section 147 applies to a case wherein reassessment is being undertaken after the expiry of four years from the end of the relevant assessment year. In those circumstances, the statute prescribes that reassessment may be resorted to only if income chargeable to tax has escaped assessment by reason of the failure on the part of the assessee to file a return under Section 139 or in response to a notice under either Sections 142(1) or 148



or on failure to disclose fully and truly all material facts necessary for assessment. Therefore, it should be examined as to whether such failure may be attributed to the petitioner.

10. As noticed earlier, the petitioner approached this Court under Sections 100 to 105 of the Companies Act, 1956, for reduction of capital. The order dated 06.11.2014 of this Court is on record. As was the requirement under Section 100 of the Companies Act, such petition was filed after passing a special resolution in a shareholders' meeting held on 26.08.2014. The material resolutions, which were extracted in the order, are reproduced below:

*“RESOLVED THAT pursuant to the Articles of Association of the Company and Section 100 to 105 of the Companies Act, 1956, (including any amendment thereto or re-enactment thereof) and subject to the confirmation of the High Court of Judicature at Madras or the National Company Law Tribunal as the case may be and also subject to the approvals of the shareholders and subject to compliance with extant regulations framed by the governmental authorities and the Reserve Bank of India, the issued, subscribed and paid up Equity Share Capital of the Company be and is hereby reduced from Rs.1,12,93,160 consisting of Rs. 11,29,316 equity shares of Rs.10/- each fully paid up to Rs.40,21,630 consisting of 4,02,163 equity shares of Rs.10/- each fully paid up and that such reduction be effected by returning to the following shareholders holding an aggregate of 7,27,153 Equity shares of Rs.10/- each fully*



*paid up constituting about 64.388% of the issued and paid up Equity Share Capital of the Company, at the rate of Rs.76.98/- per equity share held by such shareholders."*

| S.No. | Name of the shareholder           | No. of shares |
|-------|-----------------------------------|---------------|
| 1.    | Helion Venture Partners India LLC | 1,97,000      |
| 2.    | Helion Venture Partners India LLC | 3,87,535      |
| 3.    | ICP Holdings I                    | 45,462        |
| 4.    | SVB India Capital 2006 Trust      | 14,459        |
| 5.    | Christian Wedell                  | 30,766        |
| 6.    | Walden Investment VI              | 51,931        |
|       | Total                             | 7,27,153      |

*RESOLVED FURTHER THAT pursuant to Section 53 of the Companies Act, 2013 and Sections 100 to 105 of the Companies Act, 1956, and other applicable provisions of the Companies Act, 1956, Articles of Association of the Company and subject to the confirmation of the High Court of Judicature at Madras or the National Company Law Tribunal as the case may be and also subject to the approvals of the shareholders and subject to compliance with extent regulations framed by the governmental authorities and the Reserve Bank of India an amount not exceeding Rs. 4,87,04,708/- out of the balance outstanding in the Securities Premium Account as on 31 March, 2014, be utilized for adjustment against the repayment of premium amount of Rs.66.98/- per share made to following equity shareholders of the Company holding 7,27, 153 shares of Rs.10/- each, whose capital is proposed to be*



*returned along with premium."*

| S.No. | Name of the shareholder           | No. of shares |
|-------|-----------------------------------|---------------|
| 1.    | Helion Venture Partners LLC       | 1,97,000      |
| 2.    | Helion Venture Partners India LLC | 3,87,535      |
| 3.    | ICP Holdings I                    | 45,462        |
| 4.    | SVB India Capital 2006 Trust      | 14,459        |
| 5.    | Christian Wedell                  | 30,766        |
| 6.    | Walden Investment VI              | 51,931        |
|       | Total                             | 7,27,153      |

11. As prescribed by the statute, the order records that a certified copy of the order, including the annexed minutes, would be delivered to the Registrar of Companies within 21 days from the date of receipt of the order. Pursuant thereto, the Registrar of Companies has registered the minutes.

12. From the resolutions extracted above, it is evident that the equity share capital was reduced under the capital reduction order and that such reduction was effected by returning an aggregate of 7,27,153 equity shares of Rs.10/- each constituting 64.388% of the issued and paid up share capital of the company at the rate of Rs.76.98/- per equity share. The resolutions also makes it clear that payment was being made by utilising the amount lying in the securities premium account as on 31.03.2014 to the extent of Rs.66.98 per share.



13. There is considerable correspondence between the petitioner and the assessing officer prior to the issuance of the original assessment order pursuant to a scrutiny assessment. It is pertinent to refer to material correspondence. By letter dated 08.06.2017, the petitioner was asked to provide a note on expenditure incurred in foreign currency and to explain if any shares were issued in that year. By reply dated 24.11.2017, the petitioner provided a copy of the ledger account relating to capital reduction during financial year 2014-15. The ledger account provides particulars of the shareholders who were paid towards reduction of capital. This information is contained at page 85 of the typed set. The petitioner has also annexed the certificate of registration of the order confirming the reduction of capital issued by the Registrar of Companies. Reference should also to be made to letter dated 28.11.2017 from the petitioner providing an explanation for the large outward remittances due to reduction of capital during the year. Three remittance certificates towards repayment to the capital investors during the year were enclosed. As an enclosure to letter dated 27.12.2017, the petitioner has provided in tabular form the amounts paid to each shareholder during the reduction of capital exercise including a break-up of the face value and premium. The relevant share certificates were also annexed to this communication. Along with the share certificates, the tax residence certificate of the non-resident shareholders were also provided.



14. In the face of the above evidence, I am unable to conclude that the petitioner failed to disclose fully and truly all material facts necessary for assessment. This is not a case of failure to file the return either. Learned senior standing counsel contended that Explanation (1) to Section 147 as it stood then justifies reassessment especially for purposes of calling for the valuation report. Explanation (1) to Section 147 deals with a situation where generic information, such as books of account, is provided. The expression ‘books of account’ embraces general ledgers, cash books, journals, sales and purchase day books and the like. Consequently, it would be necessary for the assessing officer to examine such generic evidence thoroughly and ferret out specific evidence. By contrast, in the case at hand, specific queries were put to the petitioner in several communications and such queries were responded to specifically by providing the documents requested for by the assessing officer. Therefore, Explanation (1) to Section 147 does not come to the aid of the respondent. Consequently, I conclude that the reopening of assessment does not satisfy the requirements of the first proviso to Section 147 as applicable. I am of the view that such reassessment is being undertaken either in order to deal with a request from the investigation wing or on account of change of opinion, and neither reason qualifies as legally permissible.



15. Hence, both the impugned notices are quashed and the writ petition is allowed without any order as to costs. Consequently, connected miscellaneous petitions are closed.

**06-02-2026**

Neutral Citation: Yes/No

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To

1.Additional / Joint / Deputy / Assistant  
Commissioner of Income Tax / Income Tax  
officer, National Faceless Assessment Centre,  
Delhi

2.Deputy Commissioner of Income Tax  
Corporate Circle 1(1) 121 M.G.Road,  
Nungambakkam, Chennai 34



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**SENTHILKUMAR RAMAMOORTHY, J.**

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**06-02-2026**