WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2026

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 927 of 2023
and
W.M.P. No. 909 of 2023

Mr. Nemichand Goutham Chand ... Petitioner

Vs.

1.Central Board of Direct Taxes,
Represented by its Chairperson,
Department of Revenue – Ministry of Finance,
Government of India, New Delhi.

2.Income Tax Officer,
Non Corp Ward – 10(1), CHE,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai – 34.

3.Principal Chief Commissioner of Income Tax,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai – 34. ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records in PAN: AACPG1420E and quash the impugned order under clause (d) of Section 148A of the Income Tax Act, 1961 in ITBA/AST/F/148A/2022-23/1042653569(1) issued on 08.04.2022 and the consequential notice under Section 148 of the Income Tax Act, 1961 in ITBA/AST/S/148_1/2022-

https://www.mhc.tn.gov.in/judis

WEB COPY

23/1042654275(1) dated 08.04.2022 for the A.Y. 2015-16 by the 2nd respondent as illegal and without jurisdiction.

For Petitioner : Mr. R. Sivaraman

For Respondents : Ms. C.P. Priya,
Senior Standing Counsel

<u>O R D E R</u>

The Petitioner has challenged the impugned order dated 08.04.2022 issued under Section 148A(d) of the Income Tax Act, 1961 and the consequential Section 148 Notice also dated 08.04.2022 issued under the new regime in force with effect from 01.04.2021. The challenge to the impugned order and notice are two-fold.

2. It is the case of the Petitioner that the Petitioner had been allotted a PAN bearing No. AACPG1420E and since the Petitioner had issues with the said PAN, the Petitioner therefore applied for and obtained a fresh PAN, namely AWWPG6614Q. For the Assessment Year in question, i.e., Assessment Year 2015-2016, the Petitioner filed the return of income under Section 139(1) on 28.09.20215, with new PAN, which was acknowledged on 29.09.2015.

https://www.mhc.tn.gov.in/judis

WEB COPY

3. It is further submitted that the Petitioner was issued with an intimation for the succeeding Assessment Years, namely 2016-2017 and 2017-2018 on 13.03.2018, stating that the Petitioner had not filed the Returns for the old PAN AACPG1420E. In response to the same, the Petitioner has clearly informed the Respondents that there were issues with the said PAN and therefore it had been surrendered and a new PAN had been obtained by the petitioner. In the reply dated 01.07.2019, the Petitioner, further stated that the petitioner has been filing returns for the past three assessment years with the new PAN.

4. Reference was also made to the letter dated 30.06.2017, wherein it was again stated as under:

> *"I have already given request dated 24/03/12 to surrender my old pan number AACPG1420G due to corrections in the pan details. But this pan number is still showing as active status in income tax pan verification systems. Post surrendering old pan number, I have been allotted a new Pan Number-AWWPG6614Q which is being used for the past 3 financial years. Kindly consider this request and delete the Old Pan Number-AACPG1420E in the income tax pan verification systems."*

5. The said letter also bears a seal of the Income-tax Department dated 07.07.2017, acknowledging receipt of the old PAN, namely PAN No. AACPG1420E.

https://www.mhc.tn.gov.in/judis

WEB COPY

6. The Petitioner appears to have also enclosed copies of the Income-Tax Returns for three years. It is submitted that the Respondents issued a notice on 17.03.2022 for the Assessment Year 2015-2016, even though the limitation for issuance of a notice under Section 148 would expire on 31.03.2022.

7. Learned counsel for the Petitioner had argued that the initiation of proceedings was also barred by limitation. The learned counsel for the Petitioner however, later decided not to press the challenge to the proceedings on the ground of limitation under Section 149 of the Income Tax Act, 1961.

8. Learned counsel for the Petitioner further submits that the income sought to be assessed in the hands of the petitioner with the old PAN, namely AACPG1420E, was already included in the Return filed by the Petitioner on 28.09.2015 with the new PAN which was acknowledged on 29.09.2015. Therefore, invocation of the machinery provisions under Section 148A(b) by issuance of the notice dated 17.03.2022 culminating in the impugned order under Section 148A(d) order dated 08.04.2022 and the consequential notice under Section 148, is without merits.

https://www.mhc.tn.gov.in/judis

WEB COPY

9. Learned Senior Standing Counsel for the Respondents submits that the impugned order is well within the four corners of law and therefore, does not merit any interference. It is further submitted that the failure on the part of the Petitioner to file the return using PAN AACPG1420E led to the issuance of the notice under Section 148A(d), which consequently culminated in the impugned order dated 08.04.2022 and the notice under Section 148, also dated 08.04.2022.

10. The relevant paragraphs of the counter affidavit are reproduced below:

> *"4. It is submitted that the averments as mentioned in Para 9 in the affidavit submitted by the Writ Petitioner is vehemently denied and the petitioner has wrongly quoted Para 4 of the order u/s 148A(d) dated 8.4.2022 and the actual Para 4 of the said order u/s 148A(d) dated 8.4.2022 is reproduced as under:*
>
> *4. I have considered the reply of assessee:*
>
> *The assessee has accepted transactions during the year under consideration. During the A.Y. 2015-16, the assessee has not filed return in PAN AACPG144420E. The assessee's submission that the transactions carried out pertaining to this PAN have been reflected in AWWPG6614Q needs to be examined with reference to books of accounts and bank statements. The present jurisdiction of the PAN vests with Non Corporate Ward-7(1) and hence the same could not be verified.*
>
> *4. After considering the material available on record and the reply of the assessee, I am satisfied that it is a fit case for issue of notice u/s 148 of the I.T. Act. This order is passed with the prior approval of PCCIT, Tamil nadu.*

https://www.mhc.tn.gov.in/judis

WEB COPY

Copy of the order u/s 148A(d) dated 8.4.2022 of the Income-tax Act, 1961 in the case of assessee for A.Y.2015-16 is attached for kind reference. The assessee is having two PANs (Old PAN: AACPG1420E and New Pan: AWWPG6614Q). At the time of passing of order u/s 148A(d) dated 8.4.2022 for Old PAN: AACPG1420E, the new PAN: AWWPG6614Q was lying under the jurisdiction of the ITO, NCW 7(1), Chennai. Although assessee had requested for old PAN deletion, the assessee himself admitted in Para 4 of his affidavit that the assessee failed to intimate his Bank about change of PAN of the assessee and thus, transaction were reported by the Bank in his Old PAN: AACPG1420E only. As a result, the order u/s 148A(d) dated 8.4.2022 of the Income-tax Act, 1961 was passed and consequential notice u/s 148 dated 8.4.2022 of the Income Tax Act, 1961 was issued in the case of assessee for A.Y.2015-16 for Old PAN: AACPG1420E.

5. It is submitted that as against the averments mentioned in Para 10 of the affidavit : 3rd and 4th proviso to Section 149(1) of the I-T Act, 1961 is reproduced as under:

> *"Provided also that for the purposes of computing the period of limitation as per this section, the time or extended time allowed to the assessee, as per show-cause notice issued under clause (b) of Section 148A or the period during which the proceeding under Section 148A is stayed by an order or injunction of any court, shall be excluded:*
>
> *Provided also that where immediately after the exclusion of the period referred to in the immediately preceding proviso, the period of limitation available to the Assessing Officer for passing an order under clause (d) of Section 148A is less than seven days, such remaining period shall be extended to seven days and the period of limitation under this sub-section shall be deemed to be extended accordingly."*
>
> *The Show Cause Notice u/s 148A(b) of the I-T Act, 1961 dated 17.03.2022 was issued to the assessee giving time till 25.03.2022 to file his reply. Copy of Show Cause Notice u/s 148A(b) of the I-T*

https://www.mhc.tn.gov.in/judis

WEB COPY

Act, 1961 dated 17.03.2022 is attached for kind reference. Thus, the said time allowed to the assessee of 9 days needs to be excluded from computing the period of limitation. Accordingly, the order u/s 148A(d) dated 8.4.2022 of the Income-tax Act, 1961 and consequential notice u/s 148 dated 8.4.2022 is not barred by limitation as per Section 149(1) of the I-T Act, 1961.

6. It is submitted that as against the averments mentioned in Para 11, 12, 13 & 14 of the affidavit, although the order u/s 148A(d) of the I-T Act, 1961 dated 8.4.2022 and consequential notice u/s 148 of the I-T Act, 1961 dated 8.4.2022 are not appealable, the assessee may file objections for issuance of notice u/s 148 dated 8.4.2022 before the Assessing Officer after following the guidelines set by the Hon'ble Supreme Court vide judgment dated 25.11.2002 in the case of M/s.GKN Drive Shaft (India) limited Vs Income tax officer and others in appeal no 7731 of 2002. Thus, the petitioner has an alternate remedy before the Assessing Officer. The petitioner has not alternate remedy before the Assessing Officer. The petitioner has not exhausted the same and directly approached the Hon'ble High Court and therefore, the instant writ petition of the assessee may kindly request you to dismiss with exemplary cost."

11. I have considered the arguments advanced by the learned counsel for the Petitioner and the learned Senior Standing Counsel for the Respondents.

12. The issue relating to the challenge to the impugned proceedings on the ground of limitation has not been pressed and therefore, is not considered in this order.

https://www.mhc.tn.gov.in/judis

WEB COPY

13. Suffice it to state that the Petitioner has been proceeded against by the Respondents on the basis of the PAN originally obtained by the petitioner, which was subsequently surrendered. *Prima facie,* for the Assessment year in question 2015-2016, the Petitioner had filed the return of income on 28.09.2025 which was acknowledged on 29.09.2015 and the amount sought to be referred to in the notice under Section 148A(d) dated 17.03.2022 had already been declared by the Petitioner in the return filed on 28.09.2015.

14. The Respondents ought to have internally verified the same before proceeding to pass the order, as to whether the income has already been declared in the Return filed on 28.09.2015. It is not open to the Respondents to contend that the Petitioner's transactions, carried out under the new PAN, needs to be examined with reference to the books of account and bank statements and that since jurisdiction vested with Non-Corporate Ward – 7 (1), the same could not be verified and therefore, issuance of the notice under Section 148 cannot be justified. This could have been verified internally or by exercising the power under Section 127 before proceeding further.

https://www.mhc.tn.gov.in/judis

WEB COPY

15. Since there are prima facie indications that the Petitioner had declared the subject income under the new PAN in the return filed on 28.09.2015, I am inclined to quash the impugned order and remit the case back only for proper examination as to whether the subject income had already been declared under the new PAN.

16. The Respondents / Original Authority shall pass appropriate orders on merits, after hearing the petitioner.

17. The Writ Petition stands disposed of with the above observations. Consequently, connected miscellaneous petition is closed. No costs.

23.02.2026

Neutral Citation: Yes / No
AT

https://www.mhc.tn.gov.in/judis

WEB COPY

C.SARAVANAN, J.

AT

To:
1.Central Board of Direct Taxes,
Represented by its Chairperson,
Department of Revenue – Ministry of Finance,
Government of India, New Delhi.

2.Income Tax Officer,
Non Corp Ward – 10(1), CHE,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai – 34.

3.Principal Chief Commissioner of Income Tax,
No.121, Mahatma Gandhi Road,
Nungambakkam, Chennai – 34.

W.P. No. 927 of 2023 and
W.M.P. No. 909 of 2023

23.02.2026

https://www.mhc.tn.gov.in/judis