



W.P.Nos.2119 and 21687 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	20.01.2026
Pronounced on	.03.2026

CORAM :

THE HONOURABLE MR. JUSTICE C.SARAVANAN

W.P.Nos.2119 and 21687 of 2023

and

W.M.P.Nos.2205, 2208, 2209, 21060 and 21061 of 2023

W.P.No.2119 of 2023

Sugunapuram Palanisamy Velumani

... Petitioner

Vs.

1.The Assistant Commissioner of Income Tax,
Central Circle-2, Coimbatore,
Income Tax Department,
No.63, Race Course Road,
Coimbatore – 641 018.

2.The Principal Commissioner of Income Tax,
Central-2,
Income Tax Department,
No.108, Nungambakkam High Road,
Chennai – 600 034.

... Respondents

Prayer in W.P.No.2119 of 2023: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the Writ Petitioner Company on the file of the First Respondent to



W.P.Nos.2119 and 21687 of 2023

quash the impugned order dated 29.12.2022 passed u/s 153C for the
Assessment Year 2017-18 in DIN: ITBA/AST/S/153C/2022-
23/1048320688(1).

W.P.No.21687 of 2023

Sugunapuram Palanisamy Velumani

... Petitioner

Vs.

1.The Assistant Commissioner of Income Tax,
Central Circle-2,
Coimbatore,
Income Tax Department,
No.63, Race Course Road,
Coimbatore – 641 018.

2.The Principal Commissioner of Income Tax,
Central-2,
Income Tax Department,
No.108, Nungambakkam High Road,
Chennai – 600 034.

... Respondents

Prayer in W.P.No.21687 of 2023: Writ Petition filed under Article 226 of the
Constitution of India, for issuance of a Writ of Certiorari, to call for the
records of the Writ Petitioner on the file of the First Respondent to quash the
impugned order dated 29.06.2023 passed u/s 271AAC(1) for the Assessment
Year 2017-18 in DIN: ITBA/PNL/F/271AAC(1)/2023-24/1054037892(1).



W.P.Nos.2119 and 21687 of 2023

For Petitioner : Mr.A.S.Sriraman
(In both W.Ps)

For Respondents : Mr.A.P.Srinivas
(In both W.Ps) Senior Standing Counsel and
Mr.A.N.R.Jayaprathap
Junior Standing Counsel

COMMON ORDER

By this Common Order, both these Writ Petitions are being disposed of.

2. In W.P.No.2119 of 2023, the Writ Petitioner has challenged the Impugned Assessment Order dated 29.12.2022 passed under Section 153C of the Income Tax Act, 1961 (hereinafter referred to as “Act”) by the 1st Respondent in response to a Notice dated 24.02.2022 issued under the aforesaid provisions of the Act.

3. In W.P.No.21687 of 2023, the Writ Petitioner has challenged the consequential Impugned Penalty Order dated 29.06.2023 passed under Section 271AAC(1) of the Act by the 1st Respondent.



W.P.Nos.2119 and 21687 of 2023

4. The Impugned Assessment Order dated 29.12.2022 has been passed in the background of a search conducted at the premises of the “Searched Person” namely M/s.SRS Mining, a Partnership Firm of J.Sekar Reddy on 08.09.2016, 09.12.2016, 10.12.20216 and 12.12.2016. Pursuant thereto, the Petitioner was issued with the aforesaid Notice under Section 153C of the Act on 24.02.2022.

5. In response to the said Notice, the Petitioner had filed a Return of Income on 23.03.2022, reiterating the Return of Income that was filed earlier on 23.01.2018 under Section 139(1) of the Act.

6. In this case admittedly, during the period in dispute, the Petitioner was a sitting MLA of the Tamil Nadu Legislative Assembly and also the Minister of Municipal Administration, Rural Development and Implementation of Special Programs.

7. In the Return of Income filed on 23.01.2018 for the Assessment Year 2017-2018, the Petitioner has declared a Gross Total Income of Rs.4,92,562/- only. The aforesaid Gross Total Income consisted a sum of



W.P.Nos.2119 and 21687 of 2023

Rs.4,44,152/- from “Salary” and Rs.48,411/- from “Income from other Sources”.

8. Though not relevant, at the outset it may be mentioned that *prima facie*, the above return declaring a salary as low as Rs.4,44,152/- for the aforesaid Assessment Year by a sitting MLA of the Tamil Nadu State Assembly does not inspire confidence. This would require a re-look even otherwise.

9. In this case, the Petitioner was issued with Notice dated 06.12.2022 under Section 142(1) of the Act, which called upon the Petitioner to furnish certain details.

10. In response thereto, the Petitioner requested for copies of the Sworn Statement of one K.Srinivasulu, the then Director M/s.JSR Infra Developers Private Limited, an associated entity of the “Searched Person”, namely M/s.SRS Mining, a Partnership Firm of J.Sekar Reddy vide request dated 12.12.2022. By a Communication dated 16.12.2022, the same was also furnished.



W.P.Nos.2119 and 21687 of 2023

11. Thereafter, vide Communication dated 19.12.2022, the Petitioner sought for cross-examination of the said K.Srinivasulu, the then Director of M/s.JSR Infra Developers Private Limited.

12. The said K.Srinivasulu, appears to have given statement to the effect that he had received sum of **Rs.71,44,50,500/-** from R.Vaithilingam, also a sitting MLA of the Tamil Nadu Legislative Assembly. It appears that the said statement was also subsequently retracted by the said K.Srinivasulu.

13. It is the grievance of the Petitioner that the Impugned Assessment Order came to be passed on 29.12.2022 under Section 153C of the Act without considering the aforesaid Communication dated 19.12.2022 for cross-examination of the said K.Srinivasulu, the then Director of M/s.JSR Infra Developers Private Limited. It is in this background, the Impugned Penalty Order dated 29.06.2023 was passed under Section 271AAC(1) of the Act.

SUBMISSIONS: -

14. The learned counsel for the Petitioner submitted that the Petitioner was entitled to cross-examine the said K.Srinivasulu, the then



W.P.Nos.2119 and 21687 of 2023

Director of M/s.JSR Infra Developers Private Limited, whose statement has been purportedly relied upon by the Department while issuing Section 153C Notice dated 24.02.2022.

15. In this regard, reliance was placed on the decision of the Hon'ble Supreme Court in **Andaman Timber Industries Vs. Commissioner of Central Excise, Kolkata – II, (2016) 15 SCC 785.**

16. The learned counsel for the Petitioner further drew the attention to challenge the Assessment Proceedings in W.P.No.21166 of 2019 vide order dated 17.07.2019 and in W.P.No.16176 of 2021 vide order dated 28.09.2021 in the case of the “Searched Person”, namely **M/s.SRS Mining, a Partnership Firm.**

17. The learned Senior Standing Counsel for the Respondents on the other hand submitted that there were sufficient materials available for invoking Section 153C of the Act against the Petitioner and it is, on this basis, Section 153C Notice dated 24.02.2022 was issued to the Petitioner which has resulted in the impugned Orders.



W.P.Nos.2119 and 21687 of 2023

18. The learned Senior Standing Counsel for the Respondents also drew the attention to Paragraph No.4 of the Counter Affidavit filed in W.P.No.21687 of 2023, which, more or less, refers to the aforesaid decision rendered in the matter. Hence it is prayed that the present Writ Petitions be dismissed.

DISCUSSION:-

19. I have considered the arguments advanced by the learned counsel for the Petitioner and the learned Senior Standing Counsel for the Respondents. I have also perused the materials available on record. I have also considered the provisions of the Act and the decision cited by the learned Counsel for the Petitioner.

20. The decision of the Hon'ble Supreme Court in **Andaman Timber case** (referred to *supra*) relied upon by the Petitioner cannot be applied to the facts present case as Section 153C Notice dated 24.02.2022 was not issued by relying on the statement of the said K.Srinivasulu, the then Director of M/s.JSR Infra Developers Private Limited. The proceeding was initiated on the strength of slip recovered during the course of search at the place of the "Searched Person".



21. In Paragraphs 4 and 5 of the Counter Affidavits filed in

W.P.No.2119 of 2023 & W.P.No.21687 of 2023, the 1st Respondent has also stated as under:-

- “4. I submit that a search and seizure under Section 132 of the Income Tax Act, 1961, was conducted in the case of M/s.SRS Mining on 08.12.2016. During the course of search in the said concern functioning at Nos.47 & 49, VBC Solitaire, 3rd floor, Bazullah Road, T.Nagar, Chennai – 600 017 on 08.12.2016, incriminating materials as noted in annexure ANN/KGAR/MPKSSR/LS/S-1, 2, 3 and 11 were found and seized. As per the seized material at Page No.53 of annexure ANN/KGAR/MPKSSR/LS/S-1, it was noticed that an amount of Rs.7,00,00,000/- had been given by the assessee to the searched firm M/s.SRS Mining for distribution to various constituencies during the General Elections to the Tamil Nadu Legislative Assembly, 2016. Further, a sworn statement was recorded from Shri K.Srinivasulu, then working as Director in M/s.JSR Infra Developers P Ltd (a connected company to M/s. SRS Mining) under Section 132(4) of the IT Act on 08, 09 & 10.12.2016. In his sworn statement, he has confirmed that the seized material contained details related to cash received by M/s.SRS Mining for distribution to various constituencies during the General Elections to the Tamil Nadu Legislative Assembly, 2016. Notice under Section 153C was issued after recording the satisfaction note on the above-mentioned facts and hence the assessee is misleading the court in stating that the satisfaction note recorded is factually incorrect.*
5. *I submit that the assessee had requested for cross-examination of the person, Shri.K.Srinivasulu, Director in M/s. JSR Infra Developers Pvt. Ltd., from whom statement was recorded under Section 132(4) of the IT Act, in the course of search conducted in M/s.SRS Mining on 08.12.2016. It is submitted that as the department did not*



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W.P.Nos.2119 and 21687 of 2023

seek to rely on the aforementioned statement for making the assessment, no cross examination was considered necessary. In short, the statement was not to be used against the assessee. In this regard, detailed explanation, as to why the cross examination was not applicable in this case, is discussed in the assessment order vide para-No.24 which is as follows:

24. In this regard, it is held that the statements recorded under Section 132(4) of the IT Act are merely corroborative in nature and are merely explaining the nature of the documents seized and entries therein. The addition arises out of the material evidence found in the seized material, wherein the name of the then Minister was found, with the details of the transactions reproduced and discussed in the Para number 11. Hence, there is no requirement for cross-examination. The above stand is supported by the decision of the ITAT Bombay Bench in the case of GTC Industries Ltd Vs. ACIT (1998) 65 ITD 380.”

22. The said Mr.K.Sreenivasalu, the former Director of the M/s.JSR Infra Developers Private Limited had apparently retracted the statement. The said statement has not been solely relied. Even in the case of said “Searched Person” namely M/s.SRS Mining, a Partnership Firm, it is evident that the statement of the said Mr.K.Sreenivasalu was not relied. This is clear from reading of Paragraph No.8 of order dated 17.07.2019 in W.P.No.21166 of 2019, by the “Searched Person”, wherein, it was observed as under:-



“8. To be noted, as alluded to supra in the narrative thus far, writ petitioner sought permission to cross examine three individuals, but permission was accorded to cross examine two individuals. On instructions, learned Revenue counsel submits that permission was accorded with regard to two individuals as the other individual namely Shri.K.Srinivasulu has turned hostile.”

23. In Paragraph No.9, the Court also observed as under in the said

Case:-

“9. In the light of the narrative thus far, the following order is passed:

a) The impugned communication dated 28.06.2019 bearing reference ‘C.No. ACLFS6523P/CC 2(4)/2019-20’ is set aside. To be noted, impugned communication is set aside solely for facilitating the writ petitioner to get an opportunity to cross examine and it is not set aside on merits. In other words, this Court is not expressing any view or opinion on merits of the matter.

*b) By consent of both sides, it is now agreed that the date, time and venue for cross examination of aforesaid two individuals namely **Shri.S.Nagarathinam and Shri.S.Murugesan** shall be 01.08.2019 (Thursday), at 12.00 Noon in the office of the Deputy Commissioner of Income Tax, Central Circle-2(4), Investigation Wing, Room No.111, 1st Floor, No.46, Mahatma Gandhi Road, Chennai – 34.*

c) It is submitted on instructions that the writ petitioner’s lawyer / Advocate shall cross examine the aforesaid two witnesses on the aforesaid date, time and venue.

d) After cross-examination in the aforesaid manner, it is open to the respondent to reissue the



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impugned communication with regard to aspects other than cross-examination aspect.”

24. Thus, it is evident even in the case of the “Searched Person”, the Respondent Income Tax Department has not relied on the statement of the said K.Srinivasalu as he had turned hostile.

25. In yet another Writ Petition filed by the “Searched Person” namely M/s.SRS Mining, a Partnership Firm, vide order dated 28.09.2021 in W.P.No.16176 of 2021, it was ordered as under:-

“18. In the considered view of this Court, stated position of the Revenue, which has been captured supra more particularly, the stated position that the sworn statements are not going to be used against the writ petitioner as set out in the counter affidavit and as captured in this order elsewhere supra by itself douses the request for cross-examination. In other words, it draws the curtains on the request for cross-examination.

19. If statements are not going to be used against the writ petitioner, it cannot be gainsaid that the persons, who made the sworn statements have to be cross-examined. Therefore, it is not necessary to further dilate into ‘NJP’ (Natural Justice Principle).”



26. Again the Division Bench of this Court vide its order dated

10.08.2022 in W.P.Nos.3625, 3635, 3661 and 3673 of 2022 filed by the

very same “Searched Person” namely M/s.SRS Mining, a Partnership Firm,

held as under:-

“86. *We have considered the rival submissions of the parties and find that the panchanamas issued by the respondents in certain cases were in the names of three individuals and in some cases, it is even in the name of the firm, apart from the three individuals. The material collected pursuant to the search jointly conducted against the three persons and the firm would not require to be dealt with under Section 153C, but would be under Section 153A of the Act of 1961. It is, however, necessary to clarify that if the material collected in the search against such person is used against other person, then proceeding can be taken under Section 153C of the Act of 1961 and not under Section 153A of the Act of 1961. Whether the material collected in the case of search upon the individuals can be considered in the hands of the firm without following the mandate of Section 153C and in the order under Section 153A of the Act of 1961 would be permissible in law is another issue that requires consideration. Thereby on remand, the assessing authority would examine the issue aforesaid.*

87. *The issue is answered accordingly and in view of the remand of the case, the issue aforesaid would be considered in the light of the finding given above.”*



W.P.Nos.2119 and 21687 of 2023

27. The said order of the Division Bench of this Court was also challenged before the Hon'ble Supreme Court in S.L.P.No.14464 of 2022.

The Hon'ble Supreme Court vide its order dated 24.08.2022 was pleased to pass the following orders:-

“3. In the meantime, there shall be a stay of fresh assessment proceedings by the Assessing Officer i.e. respondent No.4, pursuant to the impugned judgment dated 10.08.2022, passed by the Madras High Court in W.P.Nos.3635, 3625, 3661 and 3673 of 2022.”

28. The Respondents Income Tax Department was well within its rights to rely on the loose sheets retrieved during the course of search at the premises of the “Searched Person” on 08.12.2016 and 10.12.2016. The Petitioner cannot scuttle the assessment proceeding by seeking cross-examination of the person whose statement has not been relied upon.

29. In the present cases also, neither Section 153C Notice nor the Impugned Assessment Order have relied on the statement of the said Mr.K.Sreenivasalu, the then Director of the M/s.JSR Infra Developers Private Limited. What has been relied upon is a copy of the lose sheets recovered during the course of search held on 08.12.2016 which indicated that the Petitioner had given a sum of Rs.7,00,00,000/- (Seven Crore Rupees) to the



W.P.Nos.2119 and 21687 of 2023

said Mr.K.Sreenivasalu allegedly for distribution in constituency during 2016

State Assembly Election.

30. That apart, even otherwise, in the statement, the said Mr.K.Sreenivasalu, the then Director of the M/s.JSR Infra Developers Private Limited has merely stated that a sum of **Rs.71,44,50,500/-** (Seventy-One Crore Forty-Four Lakhs Fifty Thousand and Five Hundred Rupees) was received from another sitting MLA named R.Vaithilingam holding the Ministry of Housing and Urban Development.

31. The said statement has not recorded any amount was paid by the Petitioner herein to Mr.K.Sreenivasalu, the then Director of the M/s.JSR Infra Developers Private Limited. Therefore, the challenge to the impugned Orders on the ground that the Petitioner was not allowed to cross-examine Mr.K.Sreenivasalu, the then Director of the M/s.JSR Infra Developers Private Limited cannot be countenanced.

32. As such neither perversity is discernible in the impugned Orders nor any procedural irregularity while passing the impugned Orders. It cannot be, also said that there was any violation of Principles of Natural Justice



W.P.Nos.2119 and 21687 of 2023

warranting an interference with the impugned Orders, merely because request to cross-examine Mr.K.Sreenivasalu, the then Director of the M/s.JSR Infra Developers Private Limited was denied.

33. The Petitioner may or may not have a case to substantiate on the income arrived in the Impugned Assessment Order and on the penalty imposed under section 271AAC(1) of the Act. I therefore do not wish to express any further opinion on the merits of the case. I therefore see no harm in giving liberty to the Petitioner to file an appeal before the Appellate Authority against the impugned Orders.

34. Therefore, these Writ Petitions are dismissed with liberty to the Petitioner to file appeals before the Appellate Authority against the respective Orders within a period of 30 days from date of receipt of a copy of this order.

35. In case such of appeals are filed within such time before the Appellate Authority, the Appellate Authority shall pass a final order on merits without further reference to limitation. The Appellate Authority shall while passing orders, on merits, shall not be influenced by any observation on



W.P.Nos.2119 and 21687 of 2023

merits expressed in this order. No costs. Connected Writ Miscellaneous

Petitions are closed.

.03.2026

Neutral Citation: Yes / No

kmm/arb

To:

- 1.The Assistant Commissioner of Income Tax,
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Income Tax Department,
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W.P.Nos.2119 and 21687 of 2023

C.SARAVANAN, J.

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Pre-delivery Common Order in W.P.Nos.2119 and 21687 of 2023

.03.2026