IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2026

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.3701 & 23235 of 2023
and
W.M.P.Nos.3792, 3794 & 22768 of 2023

M/s. Niha International Pvt Ltd.,
11, 1st Street, North Gopalapuram,
Chennai – 600 086.
Rep. by its Director S.Rajendran ... Petitioner in both W.Ps

Vs.

The Deputy Commissioner of Income Tax,
Central Circle 2(2), 1st Floor, Investigation Building,
No.46, Mahatma Gandhi Road,
Chennai – 600 034. ... Respondent in both W.Ps

Prayer in W.P.No.3701 of 2023: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records relating to the impugned assessment order proceedings in DIN & Notice No: ITBA/AST/S/143(3)/2022-23/1048220542(1) dated 24/12/2022 by the respondent and to quash the same as arbitrary, contrary to law, violative of principles of natural justice.

Prayer in W.P.No.23235 of 2023: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records relating to the impugned penalty order passed under Section 271AAD(1)(i) in DIN No.ITBA/PNL/F/271AAD(1)(i)/2023-24/1054049219(1) dated 29.06.2023 by the respondent and to quash the same as arbitrary, contrary to law, violative of principles of natural justice.

For Petitioner in both W.Ps : Mr.R.Swarnavel

For Respondent in both W.Ps : Mr.A.P.Srinivas
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 these writ petitions, the petitioner has challenged the Assessment Order dated 24.12.2022 passed under Section 143(3) and the consequential Penalty Order dated 29.06.2023 passed under Section 271AAD(1)(i) of the Income Tax Act, 1961 for the Assessment Year 2021-2022.

3. The impugned order was preceded by a Notice dated 28.06.2022 under Section 143(2) of the Income Tax Act, 1961 to which the petitioner did

not reply. Thereafter, the petitioner was issued with Section 142(1) Notices dated 14.11.2022 and 15.11.2022.

4. By the aforesaid notices, the petitioner was required to furnish the accounts, documents and information and to collect the copy of the seized material by 08.12.2022. The petitioner however failed to respond to the same and instead, sent a representation dated 16.12.2022.

5. In the aforesaid representation, the petitioner made the following prayer:-

> *"a) In view of the forgoing submissions, it is humbly prayed to drop the proceedings so initiated in its entirety with consequential relief to NIHA.*
>
> *b) We wish to be heard in person or through our legal representative before the Show Cause Notice is finally adjudicated or an adverse decision is contemplated.*
>
> *c) We further request your good office to kindly provide us an opportunity to cross examine the parties on whose documents your good office relied upon, and*
>
> *d) We crave leave to add, alter, amend and/or modify the grounds taken herein."*

6. This was considered by the Assessing Officer, while passing the

impugned Order dated 24.12.2022, wherein it has been stated as follows:-

> *"(g) The asessee's request for cross-examination at the fag end of the assessment proceedings, without availing the opportunities provided for copying of the seized materials, without mentioning any specific persons and only stating.*
>
> *"please provide*
>
> *us opportunity of cross examination of the person(s) who may have given the adverse depositions against us and referred to in your above-mentioned letter"*
>
> *is devoid of merits. The points on which and the persons with whom cross- examination has to be made has not been mentioned. In the absence of these it was not possible for this office to consider such requests. This is yet another diversionary tactic from addressing the evidences gathered during the course of search."*

7. The case of the petitioner is that despite the petitioner asking for relevant explanation and statements, neither the documents were provided nor the petitioner was allowed to cross-examine the person from whom the statements were recorded.

8. I have heard the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondent.

9. The income tax assessment is based on 'preponderance of probabilities. If there is a preponderance of such probability, the demand will be confirmed against the assessee by the Department, following the due process of law.

10. In this case, the petitioner has not co-operated with the department by requesting the documents which formed the basis of the conclusion in the impugned order. Instead, the petitioner sought for the cross-examination of a person without naming them. Therefore, there is no merit in these writ petitions. As such, these writ petitions are liable to be dismissed.

11. However, considering the fact that the petitioner is imposed with a huge tax liability, the impugned orders are quashed and the case is remitted back to the respondent to pass a fresh order. Further, one more opportunity is granted to the petitioner to apply for the relevant documents and to file a proper reply to the notices that preceded the impugned orders within the time to be fixed by the respondent.

12. Since the impugned order is dated 24.12.2022, the petitioner is directed to deposit a sum of Rs.25,00,000/- as a condition for *de novo*

proceedings, within a period of 30 days from the date of receipt of a copy of this order. The petitioner shall also file a composite reply to the notices dated 14.11.2022 and 15.11.2022 within such time.

13. If the petitioner complies with the above direction, the respondent shall proceed to pass fresh orders on merits, as expeditiously as possible, preferably within a period of three (3) months of such reply / pre-deposit.

14. It is needless to state that, before passing any such orders, the petitioner shall be heard.

15. In case the petitioner fails to comply with the above direction, the respondent is at liberty to proceed against the petitioner based on the available records by invoking Section 144 of the Income Tax Act, 1961, as if this writ petition was dismissed in *limin*e today.

16. These Writ Petitions stand disposed of with the above directions. Consequently, connected miscellaneous petitions are closed. No costs.

02.02.2026

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Neutral Citation : Yes / No

To

The Deputy Commissioner of Income Tax,
Central Circle 2(2), 1st Floor, Investigation Building,
No.46, Mahatma Gandhi Road,
Chennai – 600 034.

C.SARAVANAN, J.

raja

W.P.Nos.3701 & 23235 of 2023

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