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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2026

CORAM

THE HON'BLE MR JUSTICE C. SARAVANAN

W.P.No.15331 of 2023
and
W.M.P.Nos.14847 & 14848 of 2023

Shri. Kailasam Raghavendra Rao,
S/o. Mr. A.Kailasam,
Flat No.11/6, Arundale Beach Road,
Kalashetra Colony, Besant Nagar,
Chennai - 600090.

..Petitioner

Vs

Assistant Commissioner of Income Tax,
Central Circle - 1(1),
No.46, Mahatma Gandhi Road,
Chennai - 34.

..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records on the file of the Respondent in PAN No. AAAPR4013J and quash the impugned Notice u/s 148 of the Income Tax Act, 1961 in ITBA / AST / S / 91 / 2022-23 / 1044377531 (1) dated 31.07.2022 issued by the respondent and the consequential order u/s 147 r.w.s 143(3) of the Income Tax Act, 1961 in ITBA / AST / S / 147 / 2022-23 / 1051696653 (1) dated 30.03.2023 passed by the respondent for the AY 2017-18 as illegal and without Jurisdiction

For Petitioner	:	Mr.Vandanavyas
For Respondent	:	Mr.A.P.Srinivas, Senior Standing Counsel, Assisted by Mr.H.Siddharth, Junior Standing Counsel.

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ORDER

The petitioner is before this Court challenging the impugned notice dated 31.07.2022 issued under Section 148 of the Income Tax Act, 1961, and the resulting assessment dated 30.03.2023 under Section 147 read with Section 143(3) of the Income Tax Act, 1961.

2. The record reveals that the petitioner had earlier been issued a notice under Section 148 on 30.06.2021 in respect of the same assessment year. In response, the petitioner filed its return of income on 02.03.2022, which ultimately culminated in an assessment order dated 30.03.2022 under Section 143(3) read with Section 147.

3. The petitioner also filed an appeal before the appellate authority on 26.04.2022, which is stated to be pending as on date.

4. The Hon'ble Supreme Court rendered its decision in *Union of India Vs. Ashish Agarwal's case.* A fresh notice was issued on 04.05.2022 under Section 148A(b) of the Income Tax Act, 1961 which has culminated in Section 148A(d) order dated 31.07.2022. A fresh notice under Section 148 dated 31.07.2022 was issued, which has culminated in the impugned assessment dated 30.03.2023.

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5. Similar issues have been considered by this Court in *Merton vs. Deputy Commissioner of Income Tax and others,* W.P. No. 26782 of 2022, dated 22.01.2025, wherein this Court observed as under (paragraphs 13 & 14):

> *"13. In my view, the aforesaid decision of the Hon'ble Supreme Court in Ashish Agarwal's case has been passed under Article 142 of the Constitution of India, in view of the peculiar circumstances arising out of the amendment to the Income Tax Act, 1961 vide Finance Act, 2021. In order to put the issue at rest, the Hon'ble Supreme Court had given the above direction.*
> *> 14. The Hon'ble Supreme Court has not given any direction to the Assessing Officer to reopen the assessment, even when the assessment was completed earlier, by treating the notice issued under Section 148 of the Income Tax Act, 1961 as a notice under Section 148A(b) of the Income Tax Act, 1961, as amended with effect from 01.04.2021."*

6. Applying the ratio of the above decision to the facts of the present case, it is clear that the issuance of the impugned Notice under Section 148 and the impugned Assessment order dated 30.03.2022 passed under Section 143(3) read with Section 147 cannot be sustained.

7. The petitioner has approached this Court at the earliest opportunity, and there is no dispute regarding the pendency of the appeal before the appellate authority. In view of the settled law, including the above-cited judgments, the impugned notice and the resulting assessment

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order cannot be sustained.

8. Consequently, this Petition deserves to be allowed. The petitioner may proceed with the pending appeal, and the impugned assessment dated 30.03.2022 shall be uploaded accordingly.

9. In the result, the Writ Petition is allowed with the above observations. No costs. Connected miscellaneous petitions are closed.

20.01.2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
kmm

To

Assistant Commissioner of Income Tax,
Central Circle - 1(1),
No.46, Mahatma Gandhi Road,
Chennai - 34.

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C.SARAVANAN, J.

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