IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2026

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.18245 of 2023
and
W.M.P.Nos.17448 and 17450 of 2023

M/s.MI Lifestyle Marketing Private Limited,
Represented by its Director
V.Suresh … Petitioner

Vs.

1.Assessment Unit,
Income Tax Department,
Ministry of Finance,
Government of India,
New Delhi.

2.Income Tax Officer,
Corporate Ward 4(1),
Room No.429,
IV Floor,
121, Mahatma Gandhi Road,
Nungambakkam,
Chennai – 600 034. … Respondents

Prayer: 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 1st Respondent in

ITBA/AST/S/147/2023-24/1053126185(1) and quash the order dated 24.05.2023 passed therein for the Assessment Year 2017-18.

For Petitioner : Mrs.Hema Muralikrishnan

For Respondents : Mrs.S.Premalatha
Senior Standing Counsel

ORDER

The Petitioner is before this Court against the Order dated 24.05.2023 passed under Section 144B read with Section 147 of the Income Tax Act, 1961 for the Assessment Year 2017-2018. This was in the light of fresh Notice dated 29.07.2022 issued under Section 148 of the Income Tax Act, 1961 under the new regime as in force with effect from 01.04.2021.

2. Earlier Section 148 Notice dated 30.06.2021 was issued to the Petitioner under the old regime as in force till 31.03.2021. However, in the light of the decision of the Hon'ble Supreme Court in **Union of India and others** Vs. **Ashish Agarwal**, 2022 SCC Online SC 543 vide Order dated 04.05.2022, a Notice dated 25.05.2022 was issued under Section 148A(b) of the Income Tax Act, 1961 which has culminated in issuance of Section 148 Notice dated 29.07.2022 under the new regime.

3. In Paragraph 28.1, the Hon'ble Supreme Court in **Ashish Agarwal case** (cited *supra*) had held that the Notice issued under the old regime shall be construed/treated as a Show Cause Notice under Section 148A(b) of the Income Tax Act, 1961 with effect from 01.04.2021.

4. Thus, Section 148 Notices issued between **April, 2021** and **30 June 2021** under the old regime as in force till 31.03.2021 are deemed to have been issued under Section 148A(b) of the Act under the new regime with effect from 01.04.2021.

5. The Section 148 Notice dated 29.07.2022 was issued with the approval of Principal Commissioner of Income Tax. As per Section 151(ii) of the Income Tax Act, 1961 as in force with effect from 01.04.2021, the approval had to be obtained from the Principal Chief Commissioner of Income Tax if the income alleged to have escaped assessment is more than **Rs.50,00,000/-.** In the present case, the income that has allegedly escaped assessment is **Rs.1,11,40,572/-** for the Assessment Year 2017-2018.

6. Section 151 of the Income Tax Act, 1961 as in force with effect from 01.04.2021 reads as under:-

> *"**151. Specified authority for the purposes of section 148 and section 148A shall be**, ---*
> *(i) Principal Commissioner or Principal Director or Commissioner or Director, if three years or less than three years have elapsed from the end of the relevant assessment year;*
> *(ii) Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General, if more than three years have elapsed from the end of the relevant assessment year.*

7. For the purpose of issuing Notice under Section 148 of the Income Tax Act, 1961 under the new regime and for the sake of understanding the specified authority, this Court in **D.Tamilselvi and another** Vs. **The Income Tax Officer, Virudhunagar and others** in **W.P(MD) Nos.30938 of 2024 etc., batch** vide order dated **15.09.2025**, simplified the name of the specified authority as under:-

Section 151	***Specified authority for Section 148 and 148A of the Act***	***Authority who sanctioned the order in the present batch of cases***
Within three years	(i) Principal Commissioner/or (ii) Principal Director/or (iii) Commissioner/or (iv) Director	
After three years	(i) Principal Chief	Principal

	Commissioner/or (ii) Principal Director General/or (iii) Chief Commissioner/or (iv) Director General	Commissioner

8. This Court in **D.Tamilselvi's case** (referred to *supra*) in **W.P(MD) Nos.30938 of 2024 etc., batch** after analyzing Paragraph No.28 of the decision of the Hon'ble Supreme Court in **Ashish Agarwal Case** (cited *supra*) and Section 151 of the Income Tax Act, 1961 as in force with effect from 01.04.2021, observed as under:-

> *"88. As far as the **Assessment Year 2017-2018** which is subject matter of **W.P.No.30940 of 2024** is concerned, the amount of tax that had escaped assessment is **Rs.1,64,53,850/-**. Thus, the case would fall both under 3 years limitation and 6 years limitation for issuance of notice under Section 148 of the Act. It is noticed that approval had been obtained only from the Principal Commissioner of Income Tax under Section 151(1) of the Act.*
>
> *89. Since more than 3 years have lapsed and the escaped assessment exceeds Rs.50 lakhs except for the Assessment Year 2016-2017 impugned in **W.P.No. 30938 of 2024 – D. Tamil Selvi**, the approval of the Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General of Income Tax was required in terms of Section 151(ii) of*

the Act. However, in the present cases, sanction has been obtained only from the Principal Commissioner of Income Tax.

*90. Consequently, the Assessment Order passed on **26.05.2023** and the Penalty Notice dated **20.12.2023** impugned in W.P.No.30938 of 2024 are to be held without jurisdiction. This aspect ought to have been considered by the Respondents while passing the impugned Assessment Order dated **26.05.2023** for the **Assessment Year 2016-2017**."*

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

10. The limitation for completing the assessment as per Section 153 of the Income Tax Act, 1961 would be 1 year from the end of the financial year in which a Section 148 Notice is issued under the provisions of the Income Tax Act, 1961. Thus, the limitation for passing the impugned Assessment Order would have expired only on 31.03.2024.

11. In this case, it is noticed that a Show Cause Notice was issued on 10.05.2023 which called upon the Petitioner to respond by 17.05.2023. On 17.05.2023, the Petitioner sought for 15 days time to respond to the above

Show Cause Notice. However, the impugned Order has been passed on 24.05.2023.

12. Since the impugned Order has been passed in a tearing hurry even though the limitation for passing the impugned Order would have expired only on 31.03.2024 in terms of Section 153 of the Income Tax Act, 1961, this Court is inclined to set aside the impugned Order and remit the case back to the 1st Respondent to re-do the exercise after the stage of issuance of Order under Section 148A(d) of the Income Tax Act, 1961 for issuing Notice under Section 148 of the Income Tax Act, 1961 under the new regime with effect from 01.04.2021, after obtaining necessary approval from the Specified Authority as is contemplated under Section 151 of the Income Tax Act, 1961 read with Section 149(1)(b) of the Income Tax Act, 1961.

13. In case, such an approval is granted by the Specified Authority under Section 151 of the Income Tax Act, 1961, the assessment proceedings shall thereafter be continued. This exercise shall be completed as expeditiously as possible, preferably, within a period of 9 months from the date of receipt of the copy of this Order.

14. This Writ Petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

02.03.2026

Neutral Citation : Yes / No

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To:

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C.SARAVANAN, J.

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