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WP No. 18608 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-01-2026

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THE HON'BLE MR JUSTICE C. SARAVANAN

WP No. 18608 of 2023
and
WMP.Nos.17847 & 17848 of 2023

Golden India Cityscapes Private Limited
Rep By Its Authorised Signatory Having
Registered Office At 2h, Ii Floor, Prince Arcade
Cathedral Road, Chennai-600086.

..Petitioner(s)

Vs

1. The Income Tax Officer
Corp.Ward 2 (3), Chennai Chennai Wanarpathy
Block, No.121 Mahatma Gadhi Road,
Nungambakkam, Chennai- 600 034.
2. The Assessment Unit
Income Tax Department, National E-
Assessment Centre, Delhi E-ramp, Jawaharlal
Nehru Stadium Delhi- 110 003.

..Respondent(s)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari calling for the records of the 2nd respondent contained in Impugned Assessment Order under 147 read with section 144 B of the Income Tax Act, 1961 bearing DIN and Notice No.ITBA / AST/ S / 147 / 2023 - 24 / 1053213742 (1) dated 26.05.2023 for the assessment year 2016- 17



quash the same as arbitrary, illegal and in violation of principles of natural justice.

For Petitioner(s):

Mr. Salai Varun

Amrith Bhargav

Kaveen

Naveen Infant

For Respondent(s):

Mr. Avinash Krishna Ravi

Senior Standing Counsel

ORDER

In this writ petition, the petitioner has challenged the Assessment order dated 26.05.2023 passed under Section 147 read with 144B of the Income Tax Act, 1961 passed for the Assessment year 2016-2017 by the 2nd respondent.

2. The petitioner had earlier filed its Return of Income on 13.09.2016, declaring a total taxable income of Rs.17,97,506/- for the Assessment year 2016-2017. Thereafter, the petitioner was issued with a Section 148 Notice dated 23.04.2021 under the provisions of the Income Tax Act under the old regime as in force till 31.03.2021.

3. Meanwhile, the Hon'ble Supreme Court delivered its judgement in ***Union of India and others vs. Shri Ashish Agarwal and others***, which later clarified by the decision of the Hon'ble Supreme Court in ***Union of India vs. Rajeev Bansal***, 2024 SCC Online SC 2993.



4. It is in this background, a fresh notice dated 23.05.2022 and 24.05.2022 was issued under Section 148A(b) of the Act under the new regime as in force with effect from 01.04.2021, to which the petitioner filed a reply on 23.06.2022. Pursuant to which, an order dated 26.07.2022 was passed under Section 148A(d) of the Act under the new regime.

5. The reasons stated for invoking the provisions for reassessment in the Notice dated 23.05.2022 / 24.05.2022 are as follows:-

Sr. No	Types of Transactions	Amount
1.	Information was received regarding on Shri Naresh Manakchand Jain & his associates who were involved in providing accommodation entries in the form of bogus LTCG/loss in several scrips to many beneficiaries. Assessee is one such beneficiary for a sum of Rs.76,03,674/-. As a outcome of enquiry / perusal and analysis of details available on records, it is noticed that the genuineness of the said transactions is not conclusively proved. After considering the materials available on records, I am satisfied that the said amount of Rs.76,03,674/- is required to be brought under tax net.	Rs.76,03,674
	Total income escaping assessment	Rs.76,03,674

6. Facts on record reveal that a Notice dated 16.06.2022 was issued under Section 144A(b) of the Act, to which the petitioner responded vide reply dated 23.06.2022, wherein the petitioner had stated as follows:-

“We would also like to state that there was no such transaction entered with Shri Naresh Manakchand Jain & his



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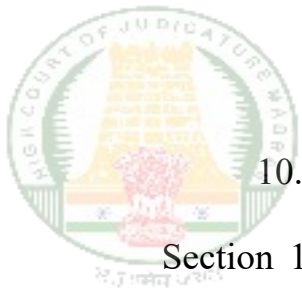
associates in the nature referred in your notice which is reiterated above. The information provided above was complete allegation made on us. We also attach a copy of our financial statement for the period 01.04.2015 to 31.06.2016 to substantiating our claim.

Hence, we kindly request you to consider our explanation and drop the proceedings under 148A.”

7. The re-assessment proceedings initiated against the petitioner for the said Assessment year under the provisions of ultimately culminated in the issuance of Section 148 notice of the Income Tax Act, 1961 under the new regime which came into force with effect from 01.04.2021.

8. Pursuant thereto, fresh notices were issued under Section 144B of the Act and the assessment proceedings were proceeded under the said provision. It is noticed that Notices under Section 142(1) were also issued on 14.03.2023 calling for certain information from the petitioner, to which the petitioner replied on 29.03.2023.

9. In the reply dated 29.03.2023 of the petitioner to the notice dated 14.03.2023 issued under Section 142 (1) of the Act, the petitioner reiterated the contents of the earlier reply dated 23.06.2022 submitted in response to Notice dated 16.06.2022 issued under Section 144A(b) of the Act.



10. Subsequently, a second notice dated 26.04.2023 was issued under Section 142 (1) of the Act, which was followed by a pre-assessment Notice dated 04.05.2023. The petitioner responded to the pre-assessment notice on 17.05.2023.

11. In the reply dated 17.05.2023 submitted in response to the aforesaid Notice dated 26.04.2023 issued under Section 142(1) of the Act, the petitioner once again restated the contentions as in the earlier replies as follows:-

“With reference to the above we would like to state the following details,

1. In your notice u/s 142(1) dated 26.04.2023 you have requested us to provide the details of our transactions with regard to traded shares / derivatives futures and options, in this regard we like to state that the assessee has not entered into trading of shares as mentioned.

2. The transactions as reported in the SFT portal as mentioned in your notice has been done without the assessee's knowledge, and they were not aware of any transactions happened as mentioned in your notice in the scrips of Nyssa Corp.

3. The assessee was unaware that such transactions were happened in the assessee's name.

4. The assessee has disclosed all the entries in the books of accounts and the same has been audited, which does not consider any transactions that has happened with trading of shares/scrips in Nyssa Corp or with Shri Naresh Jain.

5. As mentioned by you, the effect of accommodation has not at all happened since the assessee has filed the return of income without claiming such short term capital loss.



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6. When the assessee has not received any benefit due to the accommodation provided by Shri Naresh Jain as mentioned in your notice, they have not evaded tax nor have under reported the income and are clearly not a beneficiary of such accommodation as mentioned by you in your show cause notice.

7. The assessee has clearly not claimed any short term capital loss, we have produced the income tax return and Audited Financial statements of the assessee for your reference.

From the above submission we would like to submit to your good self that the assessee has not considered any short term capital loss and evade tax liability, in such scenario considering an accommodation happened does not arise.

Since there is not under reporting or mis reporting of income or evasion of tax involved in this case, we humbly request you to drop the proceedings and enable the assessee to proceed further.”

12. Pursuant to which, the assessment proceedings were completed and the impugned Assessment order was passed.

13. The learned counsel for the petitioner submits that the reason which formed the basis for initiating the reassessment proceedings under Section 148 of the Act and the reasons stated in the impugned order are at variance with each other. Therefore, it is submitted that the petitioner may be granted one further opportunity to submit a fresh reply by treating the impugned order as an addendum to the pre-assessment Show Cause Notice dated 04.05.2023 issued by the 2nd respondent.



14. The learned Senior Standing Counsel for the respondents on the other hand has drawn the attention of this Court to Paragraph Nos.14 to 18 of the Counter Affidavit filed in this Writ Petition, wherein it has been stated as follows:-

“14. Further, the 2nd respondent also received responses to the notices issued under Section 133(6) of the Income Tax Act, 1961. from the National Stock Exchange of India Limited on 08.05.2023 and from BSE Limited on 15.05.2023. Based on the global report provided by BSE. it is observed that the petitioner engaged in trading of shares during the relevant period, which included a buy quantity of 7,33,607 shares valued at Rs. 3,41,48,194/- and a sell quantity of 61.11.477 shares valued at Rs. 1.71,02,481/-, resulting in a net loss of Rs. 1,70,45,713/- with a remaining quantity of 1,22,130 shares. The aforesaid trading also includes the purchase and sale of 2.45,950 shares of Nyssa Corporation Ltd.. wherein the shares were purchased for Rs. 2.30.18.224/- and sold for Rs. 76,03,674/-, resulting in a loss of Rs. 1,54,14,610/-.

15. Similarly, as per the global report provided by NSE, it is noted that the petitioner had traded in equities during the year, with a total buy value of Rs.1,03,05,585/- and a sell value of Rs.90,60,061/-. Additionally, the petitioner also conducted transactions in the Futures & Options segment, with an F&O buy value of Rs.1,03,38,522/- and a sell value of Rs. 1,03,05,585/-.

16. In view of the above, it was concluded that although the petitioner has completely denied having engaged in any trading activities, the transactional data received from BSE and NSE clearly establishes that such transactions were, in fact, carried out on the stock exchanges in the name of the petitioner. The petitioner has, therefore, undertaken these transactions outside his book of account and acted as an exit provider. which is evident from the substantial loss of Rs. 1,54,14,610/- incurred in the penny stock scrip of Nyssa Corporation Ltd.



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17. It is thus apparent that the petitioner participated in manipulative trading activities in the penny stock of Nyssa Corporation Ltd. and acted as an exit provider in the said transactions. Since these transactions are not reflected in the petitioner's books of account, the source of funds used for such trading remains unexplained and unaccounted for. Accordingly, the total amount invested in the stock market, amounting to Rs. 5,47,92,301/- (Rs. 3,41,48,194/- + Rs. 1,03,05,585/- + Rs. 1,03,38,522/-) was treated as unexplained investment under Section 69 read with Section 115BBE of the Income Tax Act, 1961. Consequently, the assessment order under Section 147 read with Section 144B of the Income Tax Act, 1961, was passed on 26.05 2023.

18. With respect to Para 12, it is submitted that vide notice issued under Section 142(1) of the Income Tax Act, 1961. dated 26.04.2023, the petitioner was specifically requested to furnish details of all transactions undertaken in respect of traded shares, derivatives, futures and options. the statement of STCG/ LTCG, the dermat account statement for the Financial Year 2015-16, and complete details of all trades carried out in BSE/NSE/ other stock exchange etc. However, the petitioner failed to respond to the aforesaid notice issued under Section 142 (1) and did not submit the requisite details as called for. Subsequently, vide notice dated 04.05.2023, the 2nd respondent specifically issued a show cause to the petitioner, calling upon the petitioner to explain as to why an adverse inference should not be drawn under the provisions of the Income Tax Act, 1961, in respect of the trading transactions undertaken in the scrip of Nyssa Corporation Ltd., amounting to Rs.76,03,674.35/- and also in respect of trades executed on the BSE and NSE during the relevant year. Thus, the petitioner was provided an opportunity to explain the nature and details of the trading activities carried out during the relevant financial year on the said exchanges. Further, for kind reference, Section 147 of the Income Tax Act, 1961 is reproduced below:

Income escaping assessment

147. If any income chargeable to tax, in the case of an assessee, has escaped assessment for any assessment year, the Assessing Officer may, subject to the provisions of sections 148 to 153, assess or reassess such income or recompute the loss or the depreciation allowance or any other allowance or deduction for



such assessment year (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year).

Explanation. For the purposes of assessment or reassessment or recomputation under this section, the Assessing Officer may assess or reassess the income in respect of any issue, which has escaped assessment, and such issue comes to his notice subsequently in the course of the proceedings under this section, irrespective of the fact that the provisions of section 1484 have not been complied with.]

Hence, the petitioner's case squarely falls within the ambit of the Explanation to Section 147 of the Income Tax Act, 1961."

15. I have considered submissions made by the learned counsel for the petitioner and learned Senior Standing counsel for the respondents and have perused the material on record.

16. Upon perusing the contents of the Counter Affidavit filed by the respondents, I am of the view that the impugned assessment order is liable to be set aside and remitted back to the respondents to pass a fresh orders on merits after affording another opportunity of hearing to the petitioner to file a detailed reply along with necessary documents to substantiate the case.

17. Accordingly, the impugned assessment order stands quashed and the case is remitted back to 2nd respondent to pass a fresh order on merits and in accordance with law as expeditiously as possible after hearing the petitioner.



18. The impugned Assessment order shall be treated as an addendum to the pre-assessment Show Cause Notice dated 04.05.2023. The petitioner shall keep the reply ready and transmit the same as and when the portal becomes available for uploading the reply.

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

27-01-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

1. The Income Tax Officer
Corp.Ward 2 (3), Chennai Chennai Wanarpathy
Block, No.121 Mahatma Gadhi Road,
Nungambakkam, Chennai- 600 034.
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Income Tax Department, National E-
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C.SARAVANAN, J.

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