IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2026

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.28714 of 2023
and
W.M.P.Nos.28280 and 28281 of 2023

Parthiban ... Petitioner

Vs.

1.National Faceless Assessment Unit,
Income Tax Department,
Delhi.

2.Income Tax Officer,
Non-Corporate Ward – 22(1),
Chennai. ... 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 pertaining to the impugned order dated 18.05.2023 bearing DIN No.ITBA/AST/S/147/2023-24/1052949558(1) purportedly passed under Section 147 r.w.Section 144B, of the Income Tax Act, 1961, for the Assessment Year 2014-15, by the 1st respondent to quash the same.

For Petitioner	:	Ms.T.V.Muthu Abirami
For Respondent	:	Mr.Avinash Krishnan Ravi Junior Standing Counsel

ORDER

The petitioner is before this Court against the impugned Assessment Order dated 18.05.2023 passed under Section 147 r/w. Section 144 B of the Income Tax Act, 1961 for the Assessment Year 2014-2015 by the 1st respondent.

2. The impugned Assessment Order is preceded by a Notice dated 30.06.2021 issued under Section 148 of the Act. In the background of the Judgment of the Hon'ble Supreme Court in ***Union of India v. Ashish Agarwal*** in Civil Appeal No.3005 of 2022, dated 04.05.2022, a Notice dated 26.05.2022 was issued under Section 148A(b) of the Act, which ultimately culminated in an Order dated 26.07.2022 under Section 148A(d) and a Section 148 Notice dated 26.07.2022 under the new regime as in force w.e.f., 01.04.2021.

3. Thus, the said Section 148 Notice dated 30.06.2021 was not proceeded. Instead, a fresh Notice dated 26.05.2022 came to be issued under the new regime as in force w.e.f. 01.04.2021 under Section 148A(b) of the Act.

4. The limitation period prescribed for completing the assessment pursuant to the Notice dated 26.07.2022 under Section 148 of the Act, is covered by Section 153 (2) of the Act. Section 153(2) of the Act reads as under:-

> *“**Section 153: Time limit for completion of assessment, reassessment and recomputation:-***
> *(1) ....*
> *(2) No order of assessment, reassessment or recomputation shall be made under Section 147 after the expiry of nine months from the end of the financial year in which the notice under Section 148 was served:*
>
> *Provided that where the notice under Section 148 is served on or after the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words “nine months”, the words “twelve months” had been substituted.”*

5. Thus, the respondents had one year from the end of the Financial Year in which Notice under Section 148 dated 26.07.2022 was issued. The end of the Financial Year in which Notice under Section 148 dated 26.07.2022 was issued is 31.03.2023. Thus the limitation prescribed for completion of the assessment proceeding expired only on 31.03.2024. The impugned assessment order has been passed on 18.05.2023 long before the expiry of the limitation period prescribed.

6. The facts on record further reveal that the petitioner has sent two representations on 08.04.2023 and 04.05.2023 seeking time to furnish certain records. Initially, time was sought for till 03.05.2023 was granted vide communication dated 08.04.2023. Thereafter, on 04.05.2023, the petitioner stated that he is a labour contractor providing daily wage to the labour for construction activities and therefore considering the nature of work the data required to be submitted for the Assessment Year 2014-2015, sought time till 18.05.2023.

7. On the other hand, the respondents vide communication dated 05.05.2023 stated as under:-

> *“In connection with the assessment proceedings for A.Y.2014-15, a show cause notice of the Income-tax Act, 1961 dated 02/05/2023 was issued to you as per which the details called for were required to be submitted by 05/05/2023.*
>
> *In response to the above show cause notice you have filed a reply dated 04/05/2023 seeking further time for filing / submitting the details called for. Considering your request, you are hereby informed that the details called for vide show cause notice dated 02/05/2023 shall now be submitted latest by 10/05/2023 without seeking further adjournments since the assessment in your case has to be finalized in a time bound manner.”*

8. Therefore, the impugned assessment order was passed on 18.05.2023 for the Assessment Year 2014-2015 by the 1st respondent. The fact remains that the petitioner has not given a proper reply in response to the Notice issued under Section 148 of the Act, dated 26.07.2022 that preceded the impugned Assessment Order.

9. No prejudice would be caused if the case is remitted back to the respondents to re do the exercise from the stage of Section 148 Notice. Therefore, the impugned Assessment Order is quashed and the case is remitted back to the 1st respondent to pass fresh orders on merits as expeditiously as possible, preferably within a period of twelve months from the date of receipt of a copy of this order.

10. The petitioner shall file a reply to the Notice dated 26.07.2022 together with documents within a period of 30 days from the date of receipt of a copy of this order.

11. The respondents shall give suitable instructions to the Administrator to facilitate the petitioner to upload the reply along with necessary documents. Petitioner should also keep the reply and all the

documents for being uploaded. The petitioner shall also file a physical copy of the reply and documents immediately within a period of 30 days from the date of reply with the jurisdictional Assessing Officer.

12. This Writ Petition is disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

05.01.2026

ssn

To:

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2.Income Tax Officer,
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C.SARAVANAN, J.,

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