IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2026

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.21536 of 2023
and
W.M.P.Nos.20904, 20906 and 20910 of 2023

Senthil Karunakaran
Son/Legal Representative of
late Shri Devarajan Sivaprakasam,
S-3, Block, Akshaya Apartments,
No.4, Oragadam Road, Venkatapuram,
Ambattur, Chennai 600 053.
PAN No.ARZPS1963J ...
Petitioner

Vs.

1. Income Tax Officer,
   Non Corporate Ward 19 (3),
   121 Mahatma Gandhi Road,
   Nungambakkam, Chennai 600 034.
2. Income Tax Officer,
   Non Corporate Ward 19(1),
   121 Mahatma Gandhi Road,
   Nungambakkam, Chennai 600 034.
3. Assessment Unit,
   Income Tax Department, Ministry of Finance.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari calling for the records in PAN No.ARZPS1963J for assessment year AY 2015-16 and quash the Impugned Order under Section

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147 r.w.s. 144 read with Section 144B of the Income Tax Act, 1961 passed on Shri Devarajan Sivaprakasam (decesased) in DIN No.ITBA/AST/S/147/2022-23/1049937204(1) dated 20.02.2023 passed by the first respondent for the A.Y – 2015-16 and to quash the same as without jurisdication, and illegal.

For Petitioner	:	Mr.G.Vardini Karthik
For Respondents	:	Mrs.S.Premalatha Senior Standing Counsel

ORDER

In this writ petition, the petitioner has challenged the Assessment Order dated 20.02.2023 passed under Section 147 read with Section 144 and 144B of the Income Tax Act, 1961 for the Assessment Year 2015-2016. The impugned assessment order has been passed in the name of the deceased assessee, late Mr.Devarajan Sivaprakasam, who is the father of the petitioner.

2. The deceased assessee was employed in the Tamil Nadu Electricity Board (TNEB) who retired from service on 31.08.2013 and later passed away on 27.05.2014 during the **Assessment Year 2015-2016** (Financial Year 2014-2015).

3. In the present case, proceedings were initiated against the deceased assessee by issuance of a Notice dated 15.03.2017, alleging non-filing of the Income Tax Returns for the **Assessment Year 2015-2016**. The said notice was

not responded to by the petitioner as the Legal Representative of the deceased assessee.

4. Thereafter, a fresh Notice under Section 148A(b) of the Income Tax Act, 1961 was issued on **18.03.2022**, which culminated in an Order dated **31.02.2022** passed under Section 148A(d) and a Section 148 Notice dated **31.03.2022** of the Income Tax Act, 1961 under the new regime as in force with effect from **01.04.2021**.

5. Since no Return of Income was filed for the **Assessment Year 2015-2016**, a Notice under Section 144 of the Act was issued for completing the assessment to which also there was no reply filed. Therefore, based on the statements and materials available on record, the impugned Assessment Order dated 20.02.2023 along with a demand notice and the consequential impugned recovery notice dated 13.06.2023.

6. The case of the petitioner is that an intimation regarding non-filing of the Income Tax Return after the death of the petitioner's father late Mr.Devarajan Sivaprakasam on 27.05.2014 was received on 19.02.2016. In response, the petitioner duly intimated the first respondent by way of a

communication dated 26.03.2016 about the death of the petitioner's father late Mr.Devarajan Sivaprakasam on 27.05.2014.

7. It is further submitted by the learned counsel for the petitioner that despite the said intimation, a fresh Notice was once again issued by the first respondent on 15.03.2017. Thereafter, re-assessment proceedings were initiated by issuance of a Notice dated 18.03.2022 under Section 148A(b) of the Income Tax Act, 1961, which ultimately culminated in the impugned Assessment Order dated 20.02.2023 and consequential impugned recovery notice dated 13.06.2023.

8. The learned counsel for the petitioner submits that the reassessment proceedings by issuance of Notice under Section 148 of the Income Tax Act, 1961 under the new regime in the name of the deceased assessee is barred by limitation. It is further submitted that the last date for issuance of Section 148 Notice of the Income Tax Act, 1961 under the old regime expired on 31.03.2022.

9. At this juncture, it is submitted in view of Section 159(2)(b) of the Income Tax Act, 1961, the proceedings in itself are not sustainable. It is

submitted that while proceedings can be initiated against the legal representative of a deceased assessee, such proceedings ought to be initiated within the period of limitation prescribed under law.

10. The learned Senior Standing Counsel for the respondents submits that the challenge to the impugned proceedings is without merit. According to the respondents, the orders have been passed within time and the impugned notice was also issued with the period of limitation as prescribed under the provisions of the Act.

11. I have considered the submissions made by the learned counsel for the petitioner and the learned Senior Standing Counsel for the Respondents.

12. With effect from 01.04.2021, in terms of Section 149 of the Income Tax Act, 1961, the limitation for issuance of Section 148 Notice has been altered to **three years** or **ten years**, as the case may be. The period of limitation of three years applies in cases where the income escaping assessment is **below Rs.50,00,000/-** and the period of ten years applies, where the income escaping assessment **exceeds Rs.50,00,000/-**.

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13. Under Section 159(2)(b) of the Income Tax Act, 1961 for the purpose of making an assessment (including an assessment, reassessment or recomputation under section 147) of the income of a deceased assessee and for the purpose of levying any sum in the hands of the legal representative in accordance with the provisions of sub-section (1), not only:-

(a) any proceeding taken against the deceased before his death shall be deemed to have been taken against the legal representative and may be continued against the legal representative and may be continued against the legal representative from the stage at which it stood on the date of the deceased, but also

(b) any proceeding which could have been taken against the deceased if he had survived, may be taken against the legal representative; and

(c) all the provisions of this Act shall apply accordingly.

14. As per Section 159(3) of the Income Tax Act, 1961, the legal representative of the deceased shall, for the purposes of this Act, be deemed to be an assessee.

15. As per Section 159(4) of the Income Tax Act, 1961, every legal representative shall be personally liable for any tax payable by him in his capacity as legal representative if. While his liability for tax remains

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undischarged, he creates a charge on or disposes of or parts with any assets of the estate of the deceased, which are in, or may come into, his possession, but such liability shall be limited to the value of the asset so charged, disposed of or parted with.

16. In the present case, admittedly the amount alleged to have escaped assessment is **Rs.71,35,708/- (Rs.63,35,708/- + Rs.8,00,000/-)** towards deposits in the name of the deceased assessee with bankers. Considering the amount alleged to have escaped assessment for the **Assessment Year 2015-2016**, it cannot be said that the re-assessment proceedings initiated are time-barred, as the last date for issuance of Section 148 Notice under the old regime would expire only on **31.03.2022.**

17. However, as per proviso to Section 149 of the Income Tax Act, 1961, the time between the date of issuance of Notice under Section 148A(b) of the Income Tax Act, 1961 and the date of reply by the Petitioner is to be excluded for the purpose of computation of limitation. Thus, Section 148A(b) Notice issued on 18.03.2022 under the provisions of Income Tax Act, 1961 under the new regime is in time.

18. An order under Section 148A(d) and Notice under Section 148 under the new regime with effect from 01.04.2021 ought to have been issued latest by **31.03.2022** for however under the new regime the time between 18.03.2022 till the time given to respond is to be excluded. Where no such reply is filed to Section 148A(b) Notice, the time gets extended by one month from the end of the month in which time or extended time allowed to furnish a reply as per clause (b) to Section 148A of the Income Tax Act, 1961 under the new regime expires.

19. Thus, the time for issuance for Section 148 Notice under the provisions of the Income Tax Act, 1961 under the new regime as in force with effect from 01.04.2021 gets extended. Therefore, there is no merit in the challenge to the impugned assessment order on the ground of limitation.

20. There is also no merit in the grounds in the Affidavit filed in support of the present Writ petition. There is no merit either on a reading of Sections 148 and 149 of the Income Tax Act, 1961 as in force from **01.04.2021** or on a reading of Section 159(2)(b) of the Income Tax Act, 1961.

21. However, considering the fact that the impugned assessment order was passed under Section 144 of the Act in the absence of a reply to the Show Cause Notice dated 06.01.2023, the impugned assessment order is quashed and the case is remitted back to the 3rd Respondent to pass a fresh order on merits with liberty to the petitioner to submit a reply along with requisite documents to the Show Cause Notice dated 06.01.2023.

22. The petitioner shall file a reply to the Show Cause Notice dated 06.01.2023 that preceded the impugned assessment order together with requisite documents to substantiate the case by treating the impugned order dated 20.02.2023 as an addendum to the Show Cause Notice dated 06.01.2023 within a period of 30 days from the date of receipt of a copy of this order.

23. Needless to state, before passing any such order, the 3rd Respondent shall give due notice to the Petitioner.

24. This writ petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed.

06.01.2026

Index : Yes/No
Neutral Citation : Yes/No
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