



W.P.Nos.25481,25483,25484,25490, 25491 and 25493 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2026

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.25481, 25483, 25484, 25490, 25491 and 25493 of 2023

and

W.M.P.Nos.24876, 24877, 24878, 24881, 24882 and 24884 of 2023

W.P.No.25481 of 2023:

Baskaran Ganesan

... Petitioner

Vs.

1.The Commissioner Income Tax,
International Taxation,
No.16, BSNL Tower, Greams Road,
Chennai-600 006.

2.The Income Tax Officer,
International Taxation Ward-1(1),
No.16, BSNL Tower, Greams Road,
Chennai-600 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records of the petitioner on the file of the first respondent to quash the impugned order dated 07.07.2023 passed u/s.264 of the Act for the Assessment Year 2019-20 in DIN & Order No:ITBA/COM/F/17/2023-24/1054195164(1) and consequently direct the first Respondent to complete the revision proceedings afresh for the assessment year 2019-20 on merits after granting reasonable / sufficient opportunity of hearing.

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W.P.No.25483 of 2023:

Baskaran Ganesan

... Petitioner

Vs.

1.The Commissioner Income Tax,
International Taxation,
No.16, BSNL Tower, Greams Road,
Chennai-600 006.

2.The Income Tax Officer,
International Taxation Ward-1(1),
No.16, BSNL Tower, Greams Road,
Chennai-600 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records of the petitioner on the file of the first respondent to quash the impugned order dated 07.07.2023 passed u/s.264 of the Act for the Assessment Year 2020-21 in DIN & Order No:ITBA/COM/F/17/2023-24/1054195428(1) and consequently direct the first Respondent to complete the revision proceedings afresh for the assessment year 2020-21 on merits after granting reasonable / sufficient opportunity of hearing.

W.P.No.25484 of 2023:

Baskaran Meenakshi

... Petitioner

Vs.

1.The Commissioner Income Tax,
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International Taxation,
No.16, BSNL Tower, Greaves Road,
Chennai-600 006.

2.The Income Tax Officer,
International Taxation Ward-1(1),
No.16, BSNL Tower, Greaves Road,
Chennai-600 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records of the petitioner on the file of the first respondent to quash the impugned order dated 07.07.2023 passed u/s.264 of the Act for the Assessment Year 2019-20 in DIN & Order No:ITBA/COM/F/17/2023-24/1054194203(1) and consequently direct the first Respondent to complete the revision proceedings afresh for the assessment year 2019-20 on merits after granting reasonable / sufficient opportunity of hearing.

W.P.No.25490 of 2023:

Baskaran Meenakshi

... Petitioner

Vs.

1.The Commissioner Income Tax,
International Taxation,
No.16, BSNL Tower, Greaves Road,
Chennai-600 006.

2.The Income Tax Officer,
International Taxation Ward-1(1),
No.16, BSNL Tower, Greaves Road,
Chennai-600 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for



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issuance of a Writ of Certiorarified Mandamus to call for the records of the petitioner on the file of the first respondent to quash the impugned order dated 07.07.2023 passed u/s.264 of the Act for the Assessment Year 2020-21 in DIN & Order No:ITBA/COM/F/17/2023-24/1054194454(1) and consequently direct the first Respondent to complete the revision proceedings afresh for the assessment year 2020-21 on merits after granting reasonable / sufficient opportunity of hearing.

W.P.No.25491 of 2023:

Baskaran Ganesan

... Petitioner

Vs.

1.The Commissioner Income Tax,
International Taxation,
No.16, BSNL Tower, Greams Road,
Chennai-600 006.

2.The Income Tax Officer,
International Taxation Ward-1(1),
No.16, BSNL Tower, Greams Road,
Chennai-600 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records of the petitioner on the file of the first respondent to quash the impugned order dated 07.07.2023 passed u/s.264 of the Act for the Assessment Year 2021-22 in DIN & Order No:ITBA/COM/F/17/2023-24/1054195671(1) and consequently direct the first Respondent to complete the revision proceedings afresh for the assessment year 2021-22 on merits after granting reasonable / sufficient opportunity of hearing.



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WEB C W.P.No.25493 of 2023:

Baskaran Meenakshi

... Petitioner

Vs.

1.The Commissioner Income Tax,
International Taxation,
No.16, BSNL Tower, Greams Road,
Chennai-600 006.

2.The Income Tax Officer,
International Taxation Ward-1(1),
No.16, BSNL Tower, Greams Road,
Chennai-600 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records of the petitioner on the file of the first respondent to quash the impugned order dated 07.07.2023 passed u/s.264 of the Act for the Assessment Year 2021-22 in DIN & Order No:ITBA/COM/F/17/2023-24/1054194794(1) and consequently direct the first Respondent to complete the revision proceedings afresh for the assessment year 2021-22 on merits after granting reasonable / sufficient opportunity of hearing.

For Petitioner : Mr.A.S.Sriraman
For Respondents : Mr.B.Ramanakumar
Senior Standing Counsel

COMMON ORDER

By this common order, all these writ petitions are being disposed
of.



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2. In these writ petitions, the details of the impugned orders passed under Section 264 of the Income Tax Act, 1961 for the relevant Assessment Years are as follows:-

S.No.	Case Nos.	Assessment Year	Impugned Order Date
1	W.P.No.25481 of 2023	2019-2020	07.07.2023
2	W.P.No.25483 of 2023	2020-2021	07.07.2023
3	W.P.No.25484 of 2023	2019-2020	07.07.2023
4	W.P.No.25491 of 2023	2020-2021	07.07.2023
5	W.P.No.25493 of 2023	2021-2022	07.07.2023

3. By the impugned Order, the respondents declined to revise the assessment initiated under Section 143(1) of the Income Tax Act, 1961. There is no dispute that the petitioners filed their regular returns of income under Section 139(1) of the Income Tax Act, 1961, in respect of which, intimation under Section 143(1) was issued.

4. After the intimation were issued under Section 143(1) of the Act, the petitioners filed applications for revising the assessment in the intimations issued / passed under Section 143(1) before the 1st respondent on 12.12.2022

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for each of the assessment years viz., 2019-20, 2020-21 and 2021-22. These applications were filed beyond the limitation prescribed under Section 264(3) of the Act.

5. The impugned order has been passed by the respondent on merits stating that the petitioner ought to have filed a revised Return of Income under Section 139(5) of the Act i.e., at any time before the end of the relevant Assessment Year or before the completion of the assessment whichever was earlier.

6. The impugned order has not rejected the application on the ground of limitation for the delay in approaching the 1st respondent under Section 264 of the Act. In other words, the delay in filing the application under Section 264 of the Act has been implicitly condoned by the respondents.

7. Thus the only issue that remains for consideration is whether the order rejecting the application filed by the petitioner under Section 264 of the Act is sustainable on merits or not.



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8. This Court had an occasion to consider some what similar circumstances in ***M/s.Craftsman Automation P Ltd., v. The Commissioner of Income Tax*** vide Order dated 06.02.2020 in W.P.No.3967 of 2009. The Court disposed the said writ petition by its Order dated 06.02.2020, after referring to several decisions that were brought to the attention of the Court.

It was held as under:-

“22. Defending the orders of the 1st respondent, the learned counsel for the respondent Mr.A.N.R.Jayapratap submits that the order is well reasoned and requires no interference. He submits that power under Section 264 of the Income Tax Act, 1961 cannot be exercised to condone the delay on the part of an assessee to comply with the mandatory requirements of the law. He submits that the writ petition is misconceived and is therefore liable to be dismissed.

23. I have considered the arguments advanced on behalf of the petitioner and the respondent.

24. By the impugned order, the respondent has rejected the application filed under Section 264 of the Income Tax Act, 1961. The 1st respondent has noted the Paragraph No.5 of the assessment order dated 29.12.2006 passed by the Assessing Officer, wherein it has been observed that since the petitioner had failed to file return before the expiry of one year from the end of the relevant assessment year, the benefit of deduction under Section 80 JJAA of the Income Tax Act, 1961 cannot be allowed.

25. The 1st respondent has observed that as per sub-section 2 to Section 80JJAA of the Income Tax Act, 1961, deduction cannot be allowed unless the assessee furnishes certificate along with the return of income, the report of the accountant, as defined in the explanation below such sub-



section (2) of Section 288 giving such particulars and the report as may be prescribed. Secondly, it is stated that the revised return was filed beyond the period of limitation prescribed under Section 139(5) of the Income Tax Act, 1961.

26. In this case, the assessment which was completed on 29.12.2006 for the Assessment Year 2004-05 reopened with issue of the notice under Section 148 of the Income Tax Act, 1961. Thus, the original assessment which was completed on 29.12.2006 as modified by an order dated 17.1.2007 and was put to jeopardy by the respondent. Once notice under Section 148 of the Income Tax Act, 1961 is invoked, the 2nd respondent has wide power to re-assess not only the income escaping keeping assessment but also grant reliefs that are due to an assessee. Such exercise would culminate in a fresh re-assessment order which no doubt has been eventually set aside by the Tribunal.

27. However, in the course of such a re-assessment proceedings, the assessment already made was put to jeopardy Under Explanation 3 to Section 147 of the Income Tax Act, 1961, an assessing officer can assess or re-assess the income in respect of any issue, which escaped assessment including such issue comes to his notice subsequently in the course of the proceeding, notwithstanding that the reason for such issue have not been included in the reasons recorded under Sub-section (2) of Section 148. Therefore, while assessing or re-assessing, the Assessing Officer has to also factor such benefits that were available to the petitioner.

28. The Assessing Officer is also duty-bound to extend substantive benefits which were available and arrive at just tax to be paid. Benefits which are otherwise available to an assessee cannot be denied on the ground of technical failure of an assessee is such assessee is legitimately entitled to such substantive benefit. In this connection, it may be apt to refer to the following quotation of the Hon'ble Supreme Court in the case of Commissioner of Sales Tax Vs. Auriya Chambers of Commerce (1986) 3 SCC 50, wherein the



Hon'ble Court held that procedures are handmaids of justice and not mistress of law. In Unichem Laboratories Vs. Commissioner of Central Excise, (2002) 7 SCC 145, the Hon'ble Supreme Court held that it is no part of duty of an officer of the revenue to demand tax which are not due to it merely to augment more revenue. They must act fairly and justly.

29. In this case, the 2nd respondent has not given to benefit while reassessing the income of the petitioner while passing order on 29.12.2008. It is precisely for dealing with situations like this, powers have been vested with superior officers like the respondent under Section 264 of the Income Tax Act, 1961.

30. Though, orders have to be passed subject to provisions of the Act, the intention of the legislative is not whittle down or deny benefit which are legitimately available to an assessee.

31. Failure to file return within the period under Section 139 of the Income Tax Act, 1961 for the purpose of claiming benefit of deduction under Section 80 AAJJ of the Income Tax Act, 1961, in my view is a more procedural formality. In my view, denial of substantive benefit cannot be justified since the assessment itself was reopened by the 2nd respondent and the assessment already made on 29.12.2006 was put to jeopardy.

32. If an assessee is entitled to benefit, technical failure on the part of an assessee to claim the benefit in time, should not come in the grant of substantial benefit/benefits that was/were otherwise available under the Income Tax Act, 1961 but for such technical failure.

33. I am therefore of the view that the petitioner would be entitled to the benefit of Section 80JJAA of the Income Tax Act, 1961. The 1st respondent ought to have allowed the application filed by the petitioner under Section



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264 of the Income Tax Act, 1961.

34. In the light of the discussion, I am of the view that the petitioner is entitled to partial relief at this stage. Accordingly, the impugned order is set aside by condoning the delay in filing the return. The 2nd respondent is therefore directed to pass appropriate orders on merits in accordance with law, ignoring the delay on the part of the petitioner in filing the returns under Section 139(5) of the Income Tax Act and/or failure to furnish the report of an accountant.

35. The 2nd respondent shall pass a speaking order within a period of three months from the date of receipt of a copy of this order. Needless to state, the petitioner shall be heard before order is passed.”

9. This view has also been followed subsequently by this Court in W.P.No.17023 of 2014 in ***M/s.L-Cube Innovative Solutions P Ltd., v. The Commissioner of Income Tax.*** Therefore, the rejection of the application on the ground of Section 139(5) is not available. Therefore, the case is remitted back to the 1st respondent to pass a fresh orders on merits as to whether the petitioners were otherwise entitled to the relief sought for in the revision.

10. In view thereof, these Writ Petitions are deserves to be allowed. The 1st respondent is therefore directed to pass appropriate orders on merits as expeditiously as possible preferably within a period of eight weeks from the date of receipt of a copy of this order.



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11. The petitioners shall be heard before final orders are passed.

12. These writ petitions are allowed with the above observations.

No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

05.01.2026

ssn

Neutral Citation : Yes / No

To:

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

2.Income Tax Officer,
Non-Corporate Ward – 22(1),
Chennai.



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C.SARAVANAN, J.,

ssn

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and
W.M.P.Nos.24876, 24877, 24878, 24881, 24882 and 24884 of 2023

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