BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.02.2026**

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THE HONOURABLE **Mr. JUSTICE KRISHNAN RAMASAMY**

W.P.(MD)No.4673 of 2026 &
W.M.P.(MD)No.3913 of 2026

Senthil Kumar ...Petitioner

vs.

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

2.The Principal Commissioner of Income Tax,
CR BLDG 2, VP Rathnasamy Nadar Road,
Vishwanathapuram,
Madurai - 625 002.

3.The Income Tax Officer,
Ward 1, Income Tax Office,
No.100, N.K.Road,
Thanjavur - 613 007. ...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of certiorari calling for the records pertaining to notice under Section 148 of the Income Tax Act, 1961 issued by the 3rd respondent in PAN AXYPS4086R, DIN No.ITBA/AST/Sl148_1/2022-23/1051825439(1) 31.03.2023 r/w the consequential show-cause notice with DIN No. ITBA/AST/F/144(SCN)/2025-26/1085246773(1) dated 28.01.2026 and quash the same as illegal, devoid of merits and bereft of jurisdiction and in violation of principles of natural justice.

For Petitioner : Mr.Varun Pandian

For Respondents : Mr.N.Dilipkumar

ORDER

This Writ Petition has been filed challenging the impugned notice issued by the 3rd respondent in PAN AXYPS4086R, DIN No. ITBA/AST/Sl148_1/2022-23/1051825439(1), dated 31.03.2023 r/w the consequential show-cause notice, DIN No.ITBA/AST/F/144(SCN)/ 2025-26/1085246773(1), dated 28.01.2026.

2. The learned counsel appearing for the petitioner would submit that subsequent to the issuance of notice under Section 148 of the Income Tax Act, 1961, [hereinafter referred to as 'the Act'] assessment order was passed and the same was put into challenge before the Appellate Authority and the Appellate Authority vide order dated 12.03.2025 set aside the order and remanded the matter for re-consideration. Thereafter, the respondent issued the impugned notice dated 28.01.2026. Now, the same is put into challenge before this Court along with the notice under Section 148 of the Act, dated 31.03.2023. According to the learned counsel, the third respondent / Jurisdictional Assessing Officer has no jurisdiction to issue the show cause notice dated 31.03.2023. Further, since the matter is remanded, the

authorities are supposed to issue fresh notice. As such, without issuing notice afresh, the impugned notice dated 28.01.2026, under section 144 of the Act cannot be issued. Hence, the present Writ Petition.

3. Mr.N.Dilipkumar, learned counsel appearing for the respondents, on instructions, would submit that, in the present case, both the Jurisdictional Assessing Officer as well as Faceless Assessing Officer can issue the notice under Section 148 of the Act. He would rely on Section 147A introduced in the Finance Bill 2026 and would submit that in view of the clarification therein, the impugned notices are in order and prayed for dismissal of this Writ Petition.

4. I have given due consideration to the submissions made on either sides.

5. This Court, by relying on the order passed in *Mark Studio India Private Limited, vs. Income Tax Officer and others in W.P.Nos.25223 & 25227 of 2024, dated 20.12.2024* has passed the following order in W.P.(MD)No.39147 of 2024 on 23.06.2026:-

"Learned counsel for the petitioner would submit that the issue in the present case is whether the Jurisdictional Assessing Officer have jurisdiction to issue notice under Section 148A(d) of the Income Tax Act, with regard to the Faceless Assessment Scheme. The present issue is no more res integra in view of the decision of this Court in the case of Mark Studio India Private Limited, vs. Income Tax Officer and others made in W.P.Nos.25223 & 25227 of 2024 dated 20.12.2024. The relevant portion of the aforesaid order is extracted hereunder:-

> *58. In fine, to put it in a nutshell, this Court pass the following orders:*
>
> *i) As far as the issuance of notice under Section 148 of the IT Act is concerned, only the JAO will have exclusive jurisdiction.*
>
> *ii) As far as the assessment, re-assessment or recomputation in terms of the provisions of Section 147 of the IT Act is concerned, both the FAO as well as the JAO will have concurrent jurisdiction.*
>
> *iii) The Directorate of Income Tax (Systems) shall have the power to make allotment of cases, through Automated Allocation System to allot cases for issuance of notice under Section 148A/148 in eligible cases based on the risk management strategy in terms of the provisions of the Scheme dated 29.03.2022, to the Jurisdictional Assessing Officer based on the PAN card jurisdiction.*
>
> *iv) The JAO shall issue notice under Section 148 of the IT Act, based on the cases allotted by the Directorate of Income*

Tax (Systems) in faceless manner, by virtue of signing it digitally without referring their name, to the e-mail id of the registered account of the Assessee through the ITBA Portal.

v) In the present writ petitions, the cases were allotted by the Directorate of Income Tax (Systems) through Automated Allocation System, based on the risk management strategy formulated by the Board as referred to in Section 148 of the IT Act, for issuance of notice to the Jurisdictional Assessing Officer, who had thereafter sent the Section 148 notice to the registered email account of the Assessee from the ITBA Portal, in faceless manner. Thus, the issuance of the impugned notice was duly in accordance with the Scheme, except the procedural lapse of mentioning the name of the JAO.

vi) The said procedural errors will not vitiate the initiation of the proceedings for issuance of notice under Section 148 of the IT Act since such errors are curable in nature.

vii) In terms of the provisions of Section 151A of the IT Act, still the JAOs shall have to obtain prior approval from the higher authority for issuance of Section 148 notice under the Scheme in faceless manner.

viii) The JAO shall upload in the ITBA Portal, the relevant documents along with the reply received for Section 148 notice from the Assessee.

ix) Thereafter, the Directorate of Income Tax (Systems) forward the Section 148 cases to NaFAC to take further action. Immediately thereupon, the NaFAC shall assume the *jurisdiction in terms of Section 144B of the IT Act.*

x) Once the NaFAC assumed its jurisdiction subsequent to the receipt of the information pertaining to Section 148 cases from the Directorate of Income Tax (Systems), the NaFAC shall issue the notice under Section 143(2) or 142(1) of the IT Act calling for the further information from the Assessee.

xi) In terms of Sub-Section (2) of Section 144B of the IT Act, the Board shall have power to specify the territorial area, or persons or class of persons, incomes or class of incomes, or cases or class of cases, in which, the assessment shall be made in faceless manner.

xii) The guidelines issued on 24.05.2023, by the Board, is well within the powers available to them, in terms of the provisions of Sub-Section (2) of Section 144B of the IT Act and issuance of such guidelines will not amount of making any modification, granting exemptions or adaptation of the terms and conditions specified in the Schemes dated 28.03.2022 and 29.03.2022. The Board has exercised the power only in terms of the provisions of Section 144B(2) of the IT Act and not in terms of the provisions of Section 151A(2) of the IT Act. The proviso to Sub-Section (2) of Section 151A of the IT Act deals with the aspect that the Central Government shall not issue any direction after 31.03.2022 to make any exemption, modification and adaptation with regard to the Schemes dated 28.03.2022 and 29.03.2022. In the present case, the guidelines issued in terms of Sub-Section (2) of Section 144B of the IT Act will *not amount to the directions issued by the Central Government in terms of SubSection (2) of Section 151A of the IT Act.*

xiii) The power of Central Government to issue any direction in terms of Sub-Section (2) of Section 151A of the IT Act read with its proviso, will be entirely different from the issuance of guidelines, by the Board, with the power available in terms of Sub-Section (2) of Section 144B of the IT Act

xiv) The provisions of Section 144B of the IT Act is both in the nature of substantive as well as procedural.

xv) While the FAO performing the duties of faceless assessment in faceless manner, the JAO is also equally performing his duties, in faceless manner, while issuing the notice under Section 148A/148 of the IT Act, as intended in the Scheme.

59. For all these reasons, these writ petitions are liable to be dismissed. Accordingly, these writ petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are also closed.

60. While dismissing these petitions, this Court grants liberty to the petitioners to file their reply within a period of 30 days from the date of receipt of copy of this order, in which case, the Authorities are directed to consider the said reply and pass orders after affording an opportunity of personal hearing to the petitioner.

2.Since the issue in the present case has already decided by this Court in Mark Studio India Private Limited case (cited supra), *this writ petition stands dismissed and the petitioner is directed to file reply within a period of 30 days from the date of receipt of copy of this order, in which case, the Authorities are directed to consider the said reply and pass orders after affording an opportunity of personal hearing to the petitioner. No costs. Consequently, connected miscellaneous petitions are closed.*

6. However, few matters have been challenged before the Apex Court in S.L.P.(Civil)Diary No(s).57403 of 2025 & batch. In the Finance Bill 2026, Clause No.8 was brought in and new Section *viz.*, Section 147A was introduced as follows:-

"8. After section 147 of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2021, namely:-
"147A. Notwithstanding anything contained in any judgement, order or decree of any court or in section 151A or in any scheme framed thereunder, for the removal of doubts, it is hereby clarified that the Assessing Officer for the purposes of sections 148 and 148A shall mean and shall always be deemed to have meant to be an Assessing Officer other than the National Faceless Assessment Centre or any assessment unit referred to in sub-section (3) of section 144B."

7. By referring the above, the Apex Court disposed of all the Special Leave Petitions vide order dated 03.02.2026, stating as follows:-

> *"We dispose of these Special Leave Petition(s) by permitting the petitioner(s) herein to file an application(s) before the High Court(s) in the disposed of matter(s) to bring to the notice of the High Court(s) the latest clarification which has been issued with effect from 01.04.2021 on such clarification to be inserted in the proposed Finance Act.*
>
> *If such an application(s) is made by the petitioner herein before the High Court, the same shall be considered after giving an opportunity of hearing to both sides on its merits.*
>
> *In the event, the petitioner or any other party is unsuccessful, then liberty is reserved to the aggrieved party(s) to approach this Court to assail the impugned order(s) as well as the subsequent order(s) to be passed.*
>
> *Special Leave Petitions are disposed of in the aforesaid terms.*
>
> *All contentions on both sides are kept open to be advanced on the application(s) to be filed by the petitioner herein before the High Court in the disposed of cases.*
>
> *All pending application(s), including application(s) seeking condonation of delay, shall stand disposed of."*

8. Reading of Section 147A of the Act reveals that notice can also be issued by Jurisdictional Assessing Officer in terms of provisions of Sections

148 and 148A. This was the conclusion arrived at by this Court in *Mark Studio India Private Limited, vs. Income Tax Officer and others in W.P.Nos. 25223 & 25227 of 2024 dated 20.12.2024*. Ultimately, in Finance Bill 2026, by virtue of insertion of one new Section i.e., Section 147A, this has been clarified.

9. The main ground raised in the present case is that the Jurisdictional Assessing Officer has no jurisdiction to issue the notice dated 31.03.2023 and without issuing fresh notice under Section 148 of the Act, no notice can be issued under Section 144 of the Act, subsequent to the remand. However, since according to Finance Bill 2026, Section 147A will take effect from 01.04.2021, certainly, the Jurisdictional Assessing Officer has jurisdiction to issue the notice dated 31.03.2023. Even before the introduction of Section 147A of the Act, this Court has clarified that the Jurisdictional Assessing Officer has jurisdiction to issue notice under Section 148 of the Act.

10. Such being the case, there are no merits in the case. As stated above, the Jurisdictional Assessing Officer can issue show cause notice dated 31.03.2023 in terms of Section 147A of the Act. Hence, subsequent to the remand made by the Appellate Authority on 12.03.2025, issuance of notice under Section 144 of the Act, dated 28.01.2026, is also just and proper.

Therefore, this Writ Petition is liable to be dismissed and accordingly, the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

19.02.2026
(2/2)

Speaking / Non-speaking order
Index : Yes/No
NCC : Yes/No
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<u>KRISHNAN RAMASAMY, J.</u>

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