BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 26.03.2026

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THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

W.P(MD)No.8128 of 2026
and
W.M.P(MD)No.6660 of 2026

Vinothkumar ... Petitioner

Vs.

1.The Additional / Joint / Deputy
Assistant Commissioner of Income Tax/
Income Tax Officer,
National Faceless Assessment Centre,
Delhi.

2.The Principal Chief Commissioner of Income Tax,
Office of the Principal Chief Commissioner of Income Tax,
Bihar & Jharkhand
1st Floor,
Central Revenue Building,
Birchand Patel Path(B.C.Patel Marg)
Patna, Bihar-800 001

3.The Income Tax Officer,
ITO Ward 3(4), Chaibasa
Income Tax Office,
Tambo Road,
Chaibasa, West Singhbhum,
Jharkhand-833201 ...Respondents

Writ Petitions are filed under article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the impugned notice issued by the 3rd respondent in DIN & Notice No.ITBA/AST/S/148/2020-21/1032041283(1) and DIN & Notice No.ITBA/AST/S/148/2020-21/1031974936(1) dated 30.03.2021 and quash the same as illegal and unconstitutional and consequently directing the 3rd respondent to withdraw the corresponding proceedings based on the above notices.

For Petitioner	:Mr.M.Dhinakar
For Respondents	:Mr.N.Dilipkumar Standing Counsel

ORDER

This writ petition is filed for a certiorarified Mandamus to call for the records relating to the impugned notice dated 30.03.2021 and to quash the same as illegal.

2.The learned counsel appearing on behalf of the petitioner would submit that the notices have to be issued within a period of three years and beyond the period of three years, without the express authorization by the appropriate authority, the same could not have been issued. The learned counsel would also rely upon the judgment of this Court in ***Pramila V. Assessment Unit, Income Tax Department, New Delhi and others(W.P. No.22501 of 2025)***, more specifically paragraph 7, in which this Court has dealt with the said issue and decided that where there is no permission or approval of the Principal Chief Commissioner or the Principal Director General, issue of notice beyond the period of three years was held to be impermissible. Therefore, the learned counsel for the petitioner would submit that the writ petition deserves to be allowed.

3.Per Contra, the learned counsel appearing on behalf of the respondent Department would submit that pursuant to the notices now the assessment orders have been passed for both the years respectively on 25.03.2022 itself. Therefore, it is open for the petitioner to file an appeal as against the said order under Section 246A of the Income Tax Act, 1961, without availing the same, the petitioner cannot approach this Court. With reference to the question of limitation, the learned counsel would submit that the new scheme where the three years limitation was prescribed came into effect only from 01.04.2021 and the notices in question were issued before that is 30.03.2021. The learned counsel would submit that the erstwhile scheme is applicable under which the period of limitation is 4 to 6 years.

4.According to the learned counsel for the respondent that under the old regime, it would be 6 years in respect of the amounts more than Rs.1,00,000/-. Therefore, he would submit that the notices were issued well within time.

5.In reply thereof, the Learned counsel would submit that the said submissions cannot be countenanced and the issue has to be treated as time barred.

6.I considered the rival submissions made on either side and perused the material records of the case.

7.As rightly pointed out by the learned counsel for the respondent, in this case, only the notices issued by the 3rd respondent is under challenge. However, the orders of assessment itself is now produced on behalf of the respondent. In view thereof, the petitioner has a remedy to file an appeal. Even the question of limitation whether the notices should have been issued under the old scheme or under the new scheme, whether the period is expired as per the new scheme and old scheme etc., can be considered in the appeal. Thus, it becomes a mixed question of fact and law can appropriately be raised before the appellate authority. It can be seen that the orders of assessment was passed in the year 2022 itself.

8.Considering the fact that, it will be very well open for the petitioner to file an appeal along with an application for condonation of delay, as and when such application for delay is filed, the appellate authority shall consider the same, given the fact that the questions as to the limitations are pleaded with reference to the assessment order, the writ petition is disposed on the following terms:

(i)The petitioner shall be at liberty to file an appeal as against the orders of assessment passed pursuant to the impugned notices along with condone delay application.

(ii)Upon filing such appeal with an application, the appellate authority shall consider the same by duly taking into account the aforesaid observations and the appeal shall be disposed of in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

26.03.2026

NCC:Yes/No
Ns

D.BHARATHA CHAKRAVARTHY, J.

Ns

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