**Palani.S Vs The Additional / Joint / Deputy / Assistant Commissioner**

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**SooperKanoon Citation** : sooperkanoon.com/1444086

**Court** : Chennai

**Decided On :** Apr-20-2026

**Judge** : Honourable Mr Justice C. Saravanan

**Appeal No.** : WP/15325/2023

**Appellant** : Palani.S

**Respondent** : The Additional / Joint / Deputy / Assistant Commissioner

**Judgement** :

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2026

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN and W.M.P.Nos.14834, 14835 and 14837 of 2023 S.Palani ... Petitioner Vs.

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

2. Assistant Commissioner of Income Tax, Non-Corp. Ward 7(1), Chennai Room No.608, VI Floor, Chennai, Wanaparthy Block, No.121, Mahatma Gandhi Road, Nungambakkam, Chennai - 600 034. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records on the file of the Respondents in PAN: AKCPP4859N and quash the impugned notice issued u/s. 148 in ITBA/AST/S/148_1/2021-22/1042372435(1) dated 31.03.2022 by the 2nd Respondent and the consequential impugned order u/s 147 read with Section 144 read with Section 144B in ITBA/AST/S/147/2022- Assessment Year 2018-2019 as illegal, without jurisdiction and not in accordance with law. For Petitioner : Mr.R.Sivaraman For Respondents : Mr.B.Ramanakumar Senior Standing Counsel

## ORDER

In this Writ Petition, the Petitioner has challenged the impugned Notice dated 31.03.2022 issued under Section 148 Notice to the petitioner by the 2 nd Respondent and consequential impugned Assessment Order dated 06.03.2023 passed under Section 147 read with Section 144 and Section 144B of the Income Tax Act, 1961 for the Assessment Year 2018-2019.

2. The facts of the case reveal that the impugned proceedings was

preceded with a Notice dated 21.03.2022 issued under Section 148A(b) of the Income Tax Act, 1961 followed by an Order dated 31.03.2022 under Section 148A(d) of the Income Tax Act, 1961 and issuance of a Section 148 Notice also dated 31.03.2022.

3. The Petitioner had earlier filed a Return of Income under Section

139(1) of the Income Tax Act, 1961 on 29.03.2019. In the said Return of Income, the Petitioner had declared a taxable income of Rs.30,09,400/-. Pursuant to the Notice dated 31.03.2022 issued under Section 148 of the Income Tax Act, 1961, the Petitioner filed a fresh Return of Income on 25.04.2022 whereby the Petitioner reiterated the declaration in the Return of Income filed under Section 139(1) of the Income Tax Act, 1961 on 29.03.2019.

4. Subsequently, the assessment was transferred to the Faceless Unit.

Thus, Notices were issued to the Petitioner under Section 142(1) and Section 143(2) of the Income Tax Act, 1961 by the 1st respondent. The contention of the Petitioner is that all the communications were addressed to the Petitioners email ID namely absesoscm@yahoo.com, which the Petitioner had long ceased to operate.

5. It is further case of the Petitioner that subsequent to Section 148 Notice dated 31.03.2022, Return of Income was filed from the Petitioners new email ID namely, aura.banu1@gmail.com and the Petitioner failed to check the Notices as they were posted in the web portal, and that, the Petitioner overlooked these Notices that preceded the impugned Assessment

## Order dated 06.03.2023.

6. It is the contention of the Petitioner that the entire proceeding

emanates from a search conducted under Section 132 of the Income Tax Act, 1961 on the searched person namely M/s.G Square and M/s.Saravana Stores Bramandamai and therefore proceedings can be initiated only under Section 153C of the Income Tax Act, 1961 and not under Section 148 of the Income Tax Act, 1961. The affidavit is silent on the date of such search.

7. That apart, learned counsel for the Petitioner submits that addition of

a sum of Rs.4,87,50,000/- to the income of the Petitioner as undisclosed income of the Petitioner under Section 69A of the Income Tax Act, 1961 as well as in the hands of the Petitioners brother namely Mr.Shanmugasundaram Subramanian was unjustified.

8. It is submitted that the said income was added to the latters income vide similar proceeding dated 24.03.2023 for the same Assessment Year under Section 144 and Section 144B of the Income Tax Act, 1961 in the hands of the Petitioners brother namely Mr.Shanmugasundaram Subramanian.

9. Alternatively, the learned counsel for the Petitioner submits that the Petitioner will be satisfied if the case is remitted back to the Respondents to pass fresh orders in lieu of the impugned Assessment Order dated 06.03.2023.

10. The learned Senior Standing Counsel for the Respondents on the

other hand would submit that the impugned Assessment Order is well- reasoned and does not merit any interference in the hands of this Court under Article 226 of the Constitution of India.

11. It is submitted that after the amendment to the provisions of the

Income Tax Act, 1961 vide Finance Act, 2021, new set of provisions were incorporated in the Income Tax Act, 1961 and therefore the argument that the proceedings were without jurisdiction has to be rejected.

12. It is submitted that with effect from 01.04.2021, Section 153A to Section 153C of the Income Tax Act, 1961 stood deleted and assessment

under Section 143(3) of the Income Tax Act, 1961 including reassessment in the case of escape assessment could be only under the machinery under Section 148 of the Income Tax Act, 1961 as in force with effect from the said date and therefore proceedings initiated was in accordance with law as in force during the period.

13. I have considered the arguments advanced by the learned counsel for the Petitioner and the learned Senior Standing Counsel for the Respondents.

14. The Petitioner was issued with Section 148A(b) Notice on

21.03.2022 which is ultimately culminated in an Order dated 31.03.2022 under Section 148A(d) of the Income Tax Act, 1961 and Section 148 Notice also dated 31.03.2022.

15. With effect from 01.04.2021, a new set of provisions have been incorporated for the purpose of Assessment, Reassessment particularly in the case of income escaping assessment.

16. Section 153A, Section 153B and Section 153C of the Income Tax Act, 1961 have also been amended vide Finance Act, 2021 with effect from 01.04.2021.

17. Text of relevant portion of Section 153A(1) of the Income Tax Act,

1961 and Section 153C(3) of the Income Tax Act, 1961 as amended vide Finance Act, 2021 with effect from 01.04.2021 is reproduced below for the sake of clarity:- 153A. Assessment in case of 153C. Assessment of income of search or requisition:- any other person:-

(1) Notwithstanding anything (1) .

> contained in Section 139, Section 147, Section 148, Section 149, (2) . Section 151 and Section 153, in the case of a person where a (3) Nothing contained in this search is initiated under Section Section shall apply in relation to a 132 or books of account, other search initiated under Section 132 documents or any assets are or books of account, other requisitioned under Section 132A documents or any assets st after the 31 day of May, 2003 requisitioned under Section 132A but on or before the 31st day of on or after the 1st day of April, March, 2021, the Assessing 2021. Officer shall-

(a) issue notice to such person

requiring him to furnish within such period, as may be specified in the notice, the return of income in respect of each assessment year falling within six assessment years and for

> the relevant assessment year or years referred to in clause (b), in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under Section 139;

(b) assess or reassess the total

income of six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made and for the relevant assessment year or years. ...

18. Section 153A(1) of the Income Tax Act, 1961 as in force with

effect from 01.04.2021 contains a non obstante clause. As per the said non obstante clause, in the case of a person where a search is initiated under Section 132 or books of account, other documents or any assets are requisitioned under Section 132A after the 31st day of May, 2003 but on or before the 31st day of March 2021 nothing anything contained in Section 139, Section 147, Section 149, Section 151 and Section 153 of the Income Tax Act, 1961, shall apply.

19. Under these provisions, the Assessing officer may issue notice to

such person requiring him to furnish within the period specified in the notice, the Return of Income for each assessment year falling within six assessment years as well for the relevant assessment year or years referred to in clause

(b) of Section 153A, in the prescribed form duly verified in the prescribed

> manner and setting forth such other particulars as may be prescribed and the provisions of this Act shall, so far as may be, apply accordingly

as if such return were a return were one required to be furnished under Section 139. The Assessing Officer may also assess or reassess the total income of six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made, as well as for the relevant assessment year or years.

20. Under Section 153A(1) of the Income Tax Act, 1961, as in force

with effect from 01.04.2021, an Assessing Officer shall first:- i. issue a notice to a searched person, to furnish a return of income in respect of each assessment year falling within six

assessment years and for the relevant assessment year or years referred to in Clause (b) within such period, as may be specified in the said notice. ii. Such Return of Income shall be in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed. iii. The provisions of the Act shall, so far as may be, apply accordingly, as if such return were a return required to be furnished under Section 139.

21. In other words, return filed pursuant to such Notice shall be

deemed to be the return filed under Section 139 of the Income Tax Act, 1961. The Assessing Officer shall assess or reassess the total income of six Assessment Years immediately preceding the Assessment Year relevant to the previous Year in which such search was conducted or requisition was made for the relevant Assessment Year or Years.

22. Assessment or Re-assessment under amended Section 153A of the

Income Tax Act, 1961 will apply only in the case of a search initiated under Section 132 of the Income Tax Act, 1961 against the searched person or where the books of account, other documents or any assets were requisitioned under Section 132A of the Income Tax Act, 1961 between 31st day of May, 2003 and 31st day of March, 2021 and not after 31st day of March, 2021.

23. Section 153C(3) of the Income Tax Act, 1961 which was

simultaneously amended vide Finance Act, 2021 with effect from 01.04.2021 also contains a non obstante clause. As per the said non obstante clause, Assessment or Re-assessment will not apply in relation to a search initiated under Section 132 or books of account, other documents or any assets requisitioned under Section 132A on or after the 1st day of April, 2021.

24. Relevant portion of Section 153C(3) of the Income Tax Act, 1961 is reproduced below:- 153C. Assessment of income of any other person.

(1) .

(2) .

(3) Nothing contained in this Section shall apply in relation

to a search initiated under Section 132 or books of account, other documents or any assets requisitioned under Section 132A on or after the 1 st day of April, 2021.

25. Thus, Assessment or Re-assessment under Section 153C of the

Income Tax Act, 1961 will not apply in relation to a search initiated under Section 132 of the Income Tax Act, 1961 or where books of account, other documents or any assets were requisitioned under Section 132A of the Act on or after the 1st day of April, 2021.

26. There are no details forthcoming in the affidavit to indicate that the

date of search said to have been initiated against the searched persons namely M/s.G Square and M/s.Saravana Stores Bramandamai was on or after the 1st day of April, 2021.

27. In this case, a statutory presumption has to be drawn in terms of the

illustration (e) to Section 119 of the Bharatiya Sakshya Adhiniyam, 2023 (formerly under Section 114(e) of the Indian Evidence Act, 1872) that the search has taken place after the 1st day of April 2021 and therefore proceedings are in accordance with law. Illustration (e) to Section 119 of the Bharatiya Sakshya Adhiniyam, 2023 reads as under:- 119. Court may presume existence of certain facts.-

(1) The Court may presume the existence of any fact which it

thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case. Illustrations. The Court may presume that-

(a) .

(b) .

(c) .

(d) .

(e) judicial and official acts have been regularly performed. .

28. Thus, proceedings initiated under Section 148 of the Income Tax Act, 1961 is to be held strictly in accordance with law.

29. Further, as per Section 148A(d) of the Income Tax Act, 1961 as

amended with effect from 01.04.2021, the Assessing Officer is required to decide, on the basis of material available on record including Reply of the Assessee furnished under Section 148A(c) of the Act as to whether or not it is a fit case to issue a Notice under Section 148, by passing an order, with the prior approval of Specified Authority, within one month from the end of the month in which the Reply referred to in Clause (c) is received by him, or where no such Reply is furnished, within one month from the end of the month in which time or extended time allowed to furnish a Reply as per Clause (b) expires.

30. For the sake of clarity, Section 148A(d) of the Income Tax Act,

1961 and Proviso to Section 149 of the Income Tax Act, 1961 are extracted below:- Section 148A(d) The Assessing Officer shall, before issuing any notice under Section 148,

(d) decide, on the basis of material available on record including reply of the

assessee, whether or not it is a fit case to issue a notice under Section 148, by passing an order, with the prior approval of specified authority, within one month from the end of the month in which the reply referred to in clause (c) is received by him, or where no such reply is furnished, within one month from the end of the month in which time or extended time allowed to furnish a reply as per clause (b) expires: Third Proviso to Section 149 Fourth Proviso to Section 149 Provided also that for the purposes of Provided also that where computing the period of limitation as immediately after the exclusion of the per this section, the time or extended period referred to in the immediately time allowed to the assessee, as per preceding proviso, the period of show cause notice issued under clause limitation available to the Assessing

(b) of section 148A or the period Officer for passing an order under

during which the proceeding under clause (d) of Section 148A is less than Section 148A is stayed by an order or seven days, such remaining period injunction of any court, shall be shall be extended to seven days and excluded. the period of limitation under this sub-section shall be deemed to be extended accordingly. Explanation - For the purposes of clause (b) of this sub-section, asset shall include immovable property, being land or building or both, shares and securities, loans and advances, deposits in bank account.

31. Therefore, an order under Section 148A(d) of the Income Tax Act,

1961 has to be passed by the Assessing Officer within one month from the end of the month in which the Reply referred to in Clause (c) is received by the Assessee.

32. In this case, the dispute pertains to the Assessment Year 2018-

2019. Based on the information gathered during the course of search held at

the premises of M/s.G Square and M/s.Saravana Stores Bramandamai, it was inferred that the amount that had escaped assessment in the hands of the Petitioner is above Rs.50,00,000/- as is evident from a reading of Section 148A(b) Notice dated 21.03.2022 and Section 148A(d) Order dated 31.03.2022 passed under the Income Tax Act, 1961.

33. Since the amount which has allegedly escaped assessment is more

than Rs.1 Crore i.e., Rs.4,87,50,000/-, pursuant to the sale of the property to the said M/s.G Square and M/s.Saravana Stores Bramandamai, the limitation for issuance of Section 148 Notice cannot be said to have expired under the old regime as Section 148 Notice itself was issued on 31.03.2022.

34. The limitation under the old regime and the new regime are as

under:- Assessment Year 2018-2019 (Last date 31.03.2019) Old Regime till 31.03.2021 4 Years 6 Years 31.03.2023 21.03.2025 New Regime with effect from 3 Years 10 Years 01.04.2021 31.03.2022 31.03.2029

35. The only embargo for issuance of Section 148 Notice would have

been under the 1st Proviso to Section 149 of the Income Tax Act, 1961. As per 1st Proviso to Section 149 of the Income Tax Act, 1961, Notice under Section 148 of the Income Tax Act, 1961 cannot be issued if the limitation has already expired under the old regime.

36. The Petitioner was issued with Section 148A(b) Notice on

21.03.2022. The Petitioner filed a Reply to Section 148A(b) Notice on 26.03.2022 under Section 148A(C) of the Income Tax Act 1961. It culminated in an Order dated 31.03.2022 under Section 148A(d) of the Income Tax Act, 1961 and with the issuance of Section 148 Notice dated 31.03.2022 for the Assessment Year 2018-2019.

37. Therefore, the challenge to the impugned proceedings cannot be

countenanced since Section 148 Notice dated 31.03.2022 was issued before the expiry of the limitation period prescribed under Section 149 of the Income Tax Act, 1961.

38. Thus, it is evident that the invocation of machinery under Section 148 of the Income Tax Act, 1961 cannot be found fault with. Therefore, to that extent, the challenge to the impugned proceedings has to fail.

39. However, the fact remains that the Petitioner could not participate

> in the proceedings as the Notices were sent to the Petitioners new mail ID and were posted in the web portal, the explanation of the Petitioner appears to be a reasonable cause for having replied to the Notices that preceded the impugned Assessment Order after Section 148 Notice was issued to the Petitioner on 31.03.2022.

40. To that extent, a violation of Principles of Natural Justice can be inferred. Therefore, the impugned Assessment Order alone is quashed and the case is remitted back to the 1 st Respondent to pass a fresh Assessment

## Order in lieu of the impugned Assessment Order dated 06.03.2023 as

expeditiously as possible.

41. Needless to state, the Petitioner shall be entitled to raise all the defences that are available to the Petitioner except the one relating to jurisdiction to issue Section 148 Notice to the Petitioner.

42. The Petitioner shall keep a Reply ready to the Notices that

preceded the impugned Assessment Order by treating the impugned Assessment Order dated 06.03.2023 as an addendum to the Show Cause Notice that preceded the impugned Assessment Order and shall file with the 1st Respondent as and when the Income Tax portal is ready to receive the same.

43. The 1st Respondent shall thereafter proceed to pass a final order on merits. Needless to state the Petitioner shall be heard before final orders passed.

44. This Writ Petition stands disposed of with the above observations. No costs. Connected Writ Miscellaneous Petitions are closed. 20.04.2026 arb/raja Neutral Citation : Yes / No To

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

2. The Assistant Commissioner of Income Tax, Non-Corp. Ward 7(1), Chennai Room No.608, VI Floor, Chennai, Wanaparthy Block, No.121, Mahatma Gandhi Road, Nungambakkam, Chennai - 600 034.

**C.SARAVANAN, J.**

arb/raja 20.04.2026