Vs. — W.P. No. 15325/2023

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W.P.No.15325 of 2023 IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED : 20.04.2026 CORAM : THE HONOURABLE MR.JUSTICE C.SARAVANAN W.P.No.15325 of 2023 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 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 1/20 https://www.mhc.tn.gov.in/judis W.P.No.15325 of 2023 Section 144 read with Section 144B in ITBA/AST/S/147/2022- 23/1050428865(1) dated 06.03.2023 passed by the 1st Respondent for the 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 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 of the Income Tax Act, 1961 followed by an Order dated 31.03.2022 under of the Income Tax Act, 1961 and issuance of a Notice also dated 31.03.2022. 2/20 https://www.mhc.tn.gov.in/judis W.P.No.15325 of 2023 It is submitted that with effect from 01.04.2021, to of the Income Tax Act, 1961 stood deleted and assessment 5/20 https://www.mhc.tn.gov.in/judis W.P.No.15325 of 2023 under of the Income Tax Act, 1961 including reassessment in the case of escape assessment could be only under the machinery under 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 Notice on 21.03.2022 which is ultimately culminated in an Order dated 31.03.2022 under of the Income Tax Act, 1961 and 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. 6/20 https://www.mhc.tn.gov.in/judis W.P.No.15325 of 2023

16. , and of the Income Tax Act, 1961 have also been amended vide with effect from 01.04.2021. > (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 7/20 https://www.mhc.tn.gov.in/judis W.P.No.15325 of 2023 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 ; (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. 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 or books of account, other documents or any assets are requisitioned under after the 31st day of May, 2003 but on or 8/20 https://www.mhc.tn.gov.in/judis W.P.No.15325 of 2023 before the 31st day of March 2021 nothing anything contained in , , , and of the Income Tax Act, 1961, shall apply. > 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 . > 21. In other words, return filed pursuant to such Notice shall be deemed to be the return filed under 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 of the Income Tax Act, 1961 will apply only in the case of a search initiated under of the Income Tax Act, 1961 against the searched person or where the books of account, other documents or any assets were requisitioned under 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. 10/20 https://www.mhc.tn.gov.in/judis W.P.No.15325 of 2023

27. In this case, a statutory presumption has to be drawn in terms of the illustration (e) to of the Bharatiya Sakshya Adhiniyam, 2023 (formerly under 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 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. …………….” 12/20 https://www.mhc.tn.gov.in/judis W.P.No.15325 of 2023

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

29. Further, as per 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 of the Act as to whether or not it is a fit case to issue a Notice under , 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, of the Income Tax Act, 1961 and Proviso to of the Income Tax Act, 1961 are extracted below:- > The Assessing Officer shall, before issuing any notice under ,

35. The only embargo for issuance of Notice would have been under the 1st Proviso to of the Income Tax Act, 1961. As per 1st Proviso to of the Income Tax Act, 1961, Notice under 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 Notice on 21.03.2022. The Petitioner filed a Reply to Notice on 26.03.2022 under of the Income Tax Act 1961. It culminated in an Order dated 31.03.2022 under of the Income Tax Act, 1961 and with the issuance of Notice dated 31.03.2022 for the Assessment Year 2018-2019.

37. Therefore, the challenge to the impugned proceedings cannot be countenanced since Notice dated 31.03.2022 was issued before the expiry of the limitation period prescribed under of the Income Tax Act, 1961. 16/20 https://www.mhc.tn.gov.in/judis W.P.No.15325 of 2023

38. Thus, it is evident that the invocation of machinery under 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 Petitioner's 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 Notice was issued to the Petitioner on 31.03.2022.

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 18/20 https://www.mhc.tn.gov.in/judis W.P.No.15325 of 2023 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. 19/20 https://www.mhc.tn.gov.in/judis W.P.No.15325 of 2023 C.SARAVANAN, J. arb/raja W.P.No.15325 of 2023 20.04.2026 20/20 https://www.mhc.tn.gov.in/judis