



2023:KER:71023

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

WEDNESDAY, THE 15TH DAY OF NOVEMBER 2023 / 24TH KARTHIKA, 1945

WP(C) NO. 23174 OF 2023

PETITIONER/S:

DINESH DINAKARAN PILLAI,
AGED 52 YEARS
S/O. P. DINAKARAN PILLAI, MEKKAPLATHARA, PAZHAVADI STREET,
NEDUMANGAD, PIN - 695541

BY ADVS.
ASWIN GOPAKUMAR
ANWIN GOPAKUMAR
ADITYA VENUGOPALAN
NIKITHA SUSAN PAULSON
MAHESH CHANDRAN
SHALLET K. SAM

RESPONDENT/S:

THE INCOME TAX OFFICER,
THE OFFICE OF THE INCOME TAX OFFICER, WARD 2 (1),
TRIVANDRUM, AAYAKAR BHAVAN, PEROORKADA, KOWDIAR,
THIRUVANANTHAPURAM, KERALA., PIN - 695003

BY ADV CHRISTOPHER ABRAHAM, INCOME TAX DEPARTMENT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
15.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



J U D G M E N T

The present writ petition under Article 226 of the Constitution of India has been filed seeking the following reliefs:

- “i) issue a writ of certiorari or any other appropriate writ, direction or order and quash Exhibit P5 Order issued by the Respondent and all further proceedings arising therefrom; and
- ii) to exempt the Petitioner from producing the English Translation of Malayalam Exhibits produced along with this Writ Petition and the Petitioner further undertakes that he is ready and willing to produce English translation of Malayalam documents as an- when required; and
- (iii) to grant such other and incidental reliefs as this Hon'ble court may deem fit, just and necessary in the peculiar facts and circumstances of this case; and
- (iv) to allow this writ petition (civil) with costs to the Petitioner.”

2. Learned Counsel for the petitioner submits that before the order under Section 148A(d) came to be passed, no opportunity of being heard was afforded to the petitioner. From the order impugned in Ext.P5, it is not reflected that the



petitioner was being heard before the order under Section 148A(d) came to be passed for re-opening the assessment in respect of the Assessment Year 2016-17.

3. Mr Christopher Abraham learned Standing Counsel for the Revenue submitted that he did not have instructions regarding the opportunity of being heard given to the petitioner before the order under Section 148A(d) came to be passed.

4. In view thereof, the present writ petition is allowed. The impugned order is set aside. The matter is remitted back to the file of the respondent to pass fresh orders in accordance with the law after giving notice of hearing to the petitioner. The petitioner shall appear before the Assessing Officer/respondent on **01.12.2023** and make his submissions.

Sd/-

DINESH KUMAR SINGH

JUDGE



APPENDIX OF WP(C) 23174/2023

PETITIONER EXHIBITS

- Exhibit P-1 A TRUE COPY OF THE SALE DEED DATED 27.02.2016
EXECUTED BY THE PETITIONER IN FAVOR OF MR.
SAJAN KOSHY ALONG WITH TYPED COPY
- Exhibit P-2 A TRUE COPY OF THE NOTICE DATED 07.02.2023
BEARING DIN NO. ITBA/AST/S/133(6)/2022-
23/1049493652(1) ISSUED BY THE RESPONDENT UNDER
SECTION 133 (6) OF THE INCOME TAX ACT
- Exhibit P-3 A TRUE COPY OF THE SHOW CAUSE NOTICE DATED
03.03.2023 BEARING DIN NO.
ITBA/AST/F/148A(SCN)/2022-23/1050397106(1)
UNDER SECTION 148 A OF THE INCOME TAX
- Exhibit P-4 A TRUE COPY OF THE REPLY DATED 23.03.2023
SUBMITTED BY THE PETITIONER
- Exhibit P-5 A TRUE COPY OF THE ORDER DATED 30.03.2023
BEARING DIN NO. ITBA/AST/F/148A/2022-
23/1051635769(1) UNDER SECTION 148A (D) OF THE
INCOME TAX ACT ISSUED BY THE RESPONDENT