

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

WEDNESDAY, THE 1ST DAY OF JUNE 2022 / 11TH JYAISHTA, 1944

WP(C) NO. 17272 OF 2022

PETITIONER:

SHINI SATHEESHKUMAR,
AGED 48 YEARS
9/485 MP KALAM, MANNAMPALLAM, NENMENI POST, KOLLENGODE,
PALAKKAD-678506.

BY ADVS.
HARISANKAR V. MENON
MEERA V.MENON

RESPONDENTS:

- 1 THE INCOME TAX OFFICER,
WARD-2, AAYAKAR BHAVAN, ENGLISH CHURCH ROAD,
PALAKKAD-678014.
- 2 PRINCIPAL COMMISSIONER OF INCOME TAX,
AAYAKAR BHAVAN, MANANCHIRA, KOZHIKODE-673001.

OTHER PRESENT:

SRI. JOSE JOSEPH (SC)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
01.06.2022, ALONG WITH W.P.(C)NO.17268/2022, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

WEDNESDAY, THE 1ST DAY OF JUNE 2022 / 11TH JYAISHTA, 1944

WP(C) NO. 17268 OF 2022

PETITIONER:

SUBRAMANIAN NAMBOODIRIPAD,
AGED 61 YEARS
KOZHISSERI MANA, SHORANUR, PALAKKAD-679121.

BY ADVS.
HARISANKAR V. MENON
MEERA V.MENON
R.SREEJITH
K.KRISHNA

RESPONDENTS:

- 1 THE INCOME TAX OFFICER,
WARD-2, AAYAKAR BHAVAN, ENDLIGH CHURCH ROAD,
PALAKKAD-678014.
- 2 PRINCIPAL COMMISSIONER OF INCOME TAX,
AAYAKAR BHAVAN, MANANCHIRA, KOZHIKODE-673001.

OTHER PRESENT:

SRI. JOSE JOSEPH (SC)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01.06.2022, ALONG WITH W.P.(C)NO.17272/2022, THE COURT ON
THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

Petitioners in these cases are assesseees under the Income Tax Act. Since identical issues arise for consideration in these cases and they can be conveniently disposed of by the common judgment.

2. In both these cases the petitioners were issued with notices under Section 148 A of the Income Tax Act, requiring the petitioners to show cause as to why reassessment proceedings should not be initiated against them. These notices are dated 25-03-2022. In W.P(C) No.17272/2022, the assessee was required to show cause by 01-04-2022 while in W.P.(C) No.17268/2022 the assessee was required to show cause by 31-03-2022.

3. The learned counsel for the petitioners in these cases would submit that the provisions of Section 148 require that a minimum 7 days time has to be granted to the assesseees to reply to the show cause notices. It is submitted in W.P(C) No.17272/2022, the assessee received the notice only on 01-04-2022, while in W.P(C) No.17268/2022, the assessee

received the notice on 30-03-2022. The only contentions therefore is that sufficient time was not granted to reply to the show cause notice.

4. The learned standing counsel appearing for the Income Tax Department department vehemently opposes the grant of any relief. It is submitted that even assuming that the physical copies of the notices were received by the respective assesseees only on the dates specified above, it cannot be said that sufficient notice as required by the provisions Section 148A were not given as the notices were uploaded in the system and were sent to the registered Email Ids of the respective assesseees on 25-03-2022 itself. He has also placed certain documents before me to show that the notices had been uploaded on 25-03-2022 itself. In short his contentions is that for the purposes of determining whether sufficient time was given to the assesseees to reply should be determined with reference to the date 25-03-2022 and not the date on which the assesseees claimed to have received the notices by post.

5. This is not a case were the proceedings are bared by limitation even if the date of receipt of notice is determined

to be any other date other than 25-03-2022. The petitioners have a statutory right to reply to the notices within 7 days of its receipt. Though there is substantial merit in the contention taken by the learned counsel for the department that the notices having been sent to the registered Email Ids of the assesseees on 25-03-2022 that, must be taken as a relevant date, I am of the opinion that no prejudice will be caused to the department by affording an opportunity to the petitioners to reply to the show cause notice within a period of 7 days. In the result Ext.P3 order in both cases will stand set aside and the officer concerned shall take a fresh decision in the matter after giving 7 days time to the petitioners to reply to the show cause notice. The petitioners shall submit their replies on or before 07-06-2022 and a fresh decision shall be taken thereafter in accordance with law.

These Writ Petition stand disposed of accordingly.

Sd/-
GOPINATH P.
JUDGE

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APPENDIX OF WP(C) 17272/2022

PETITIONER EXHIBITS

- Exhibit P1 COPY OF NOTICE UNDER SECTION 148A ISSUED BY THE 1ST RESPONDENT FOR THE YEAR 2018-19 DATED 25/03/2022.
- Exhibit P2 COPY OF TRACK CONSIGNMENT LIST ISSUED BY THE POSTAL DEPARTMENT.
- Exhibit P3 COPY OF ORDER ISSUED BY THE 1ST RESPONDENT FOR THE YEAR 2018-19 DATED 06/04/2022.
- Exhibit P4 COPY OF NOTICE U/S. 148 ISSUED BY THE 1ST RESPONDENT DATED 07/04/2022.

APPENDIX OF WP(C) 17268/2022

PETITIONER EXHIBITS

- Exhibit P1 COPY OF NOTICE UNDER SECTION 148A ISSUED BY THE 1ST RESPONDENT FOR THE YEAR 2018-19 DATED 25/03/2022.
- Exhibit P2 COPY OF TRACK CONSIGNMENT LIST ISSUED BY THE POSTAL DEPARTMENT.
- Exhibit P3 COPY OF ORDER ISSUED BY THE 1ST RESPONDENT FOR THE YEAR 2018-19 DATED 07/04/2022.
- Exhibit P4 COPY OF NOTICE U/S. 148 ISSUED BY THE 1ST RESPONDENT DATED 07/04/2022.