



2024:KER:16123

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

THURSDAY, THE 29TH DAY OF FEBRUARY 2024 / 10TH PHALGUNA,

1945

WP(C) NO. 7727 OF 2024

PETITIONER/S:

BINOY KODIYERI
AGED 43 YEARS
S/O. (LATE) KODIYERI BALAKRISHNAN, 17 - A ARTECH
MEENAKSHI, VAZHUTHACAUD, THIRUVANANTHAPURAM, PIN -
695014

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

RESPONDENT/S:

THE ASSISTANT COMMISSIONER
THE OFFICE OF THE ASSISTANT COMMISSIONER OF INCOME
TAX, CIRCLE CENTRAL, THIRUVANANTHAPURAM, KERALA,
PIN - 695003.

OTHER PRESENT:

SMT.SUSIE B. VARGHESE-SC FOR THE RESPONDENT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 29.02.2024, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



J U D G M E N T

The present writ petition has been filed mainly seeking the following reliefs:

“To call for records leading to Ext. P-15 to P-15(f) and:

i. To issue a writ of mandamus or any other appropriate writ, direction or order and direct the Respondent to hand over copy of all documents relied by the Respondent in issuing Ext.P-15 to P-15(f) notices; and

ii. To issue a writ of mandamus or any other appropriate writ, direction or order and direct the Respondent to hand over a copy of the satisfaction note prepared by the Respondent based on which the Respondent is initiating proceedings under Section 153C of the Income Tax Act; and

iii. To issue a writ of certiorari or any other appropriate writ, direction or order and quash Ext.P-11 order and Ext.P-15 to P-15(f) notices issued by the Respondent and all further proceedings arising therefrom.”



2. Smt.Susie B.Varghese, very eminent counsel of this Court appearing for the Income Tax Department, who argues the matter with confidence and energy, has raised numerous objections regarding maintainability of this writ petition. She submits that in pursuance to the notice issued under Section 153C of the Income Tax Act, 1961, the petitioner-assessee is first required to submit returns for the assessment years in question. Once the petitioner-assessee files returns, then he would be entitled to satisfaction note. The petitioner-assessee has not responded to any of the notices issued by the Department and has not filed returns till date. Therefore, this writ petition is not maintainable and the petitioner is not entitled to get satisfaction note without submitting return to the jurisdictional authority concerned.

3. At this juncture, Ms.Nikitha Susan Paulson, learned counsel appearing for the petitioner, submits that the petitioner-assessee will file returns for the years in question within



a period of one week from today and also submit the documents as required by the Department. If the petitioner-assessee files returns within a period of one week from today, the Department is directed to provide satisfaction note to the petitioner forthwith. The petitioner should also, in the meantime, submit all the documents, which have been asked for by the Department in different notices.

With the aforesaid directions, the present writ petition is finally disposed of. Pending interlocutory application, if any, in the present writ petition stands dismissed.

Sd/-
DINESH KUMAR SINGH
JUDGE

jg



APPENDIX OF WP (C) 7727/2024

PETITIONER EXHIBITS

Exhibit P-1 A TRUE COPY OF THE FORM 35 APPEAL FILED BY
THE PETITIONER BEFORE THE JOINT
COMMISSIONER (APPEALS) FOR THE ASSESSMENT
YEAR 2015-16

Exhibit P-1(a) A TRUE COPY OF THE FORM 35 APPEAL FILED BY
THE PETITIONER BEFORE THE JOINT
COMMISSIONER (APPEALS) FOR THE ASSESSMENT
YEAR 2017-18

Exhibit P-1(b) A TRUE COPY OF THE FORM 35 APPEAL FILED BY
THE PETITIONER BEFORE THE JOINT
COMMISSIONER (APPEALS) FOR THE ASSESSMENT
YEAR 2018-19

Exhibit P-2 A TRUE COPY OF THE ASSESSMENT ORDER DATED
31.03.2023 ISSUED BY THE DEPUTY DIRECTOR
OF INCOME TAX UNDER SECTION 10 (3) OF THE
BLACK MONEY (UNDISCLOSED FOREIGN INCOME
AND ASSETS) AND IMPOSITION OF TAX ACT,
2015

Exhibit P-3 A TRUE COPY OF THE NOTICE DATED 17.03.2023
BEARING DIN NO. ITBA/AST/S/153C/2022-
23/1050891158(1) ISSUED BY THE RESPONDENT
UNDER SECTION 153C OF THE INCOME TAX ACT
FOR THE ASSESSMENT YEAR 2015-16

Exhibit P-3(a) A TRUE COPY OF THE NOTICE DATED 17.03.2023
BEARING DIN NO. ITBA/AST/S/153C/2022-
23/1050891159(1) ISSUED BY THE RESPONDENT
UNDER SECTION 153C OF THE INCOME TAX ACT
FOR THE ASSESSMENT YEAR 2016-17

Exhibit P-3(b) A TRUE COPY OF THE NOTICE DATED 17.03.2023
BEARING DIN NO. ITBA/AST/S/153C/2022-



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23/1050891170(1) ISSUED BY THE RESPONDENT UNDER SECTION 153C OF THE INCOME TAX ACT FOR THE ASSESSMENT YEAR 2017-18

Exhibit P-3(c) A TRUE COPY OF THE NOTICE DATED 17.03.2023 BEARING DIN NO. ITBA/AST/S/153C/2022-23/1050891165(1) ISSUED BY THE RESPONDENT UNDER SECTION 153C OF THE INCOME TAX ACT FOR THE ASSESSMENT YEAR 2018-19

Exhibit P-3(d) A TRUE COPY OF THE NOTICE DATED 17.03.2023 BEARING DIN NO. ITBA/AST/S/153C/2022-23/1050891168(1) ISSUED BY THE RESPONDENT UNDER SECTION 153C OF THE INCOME TAX ACT FOR THE ASSESSMENT YEAR 2019-20

Exhibit P-3(e) A TRUE COPY OF THE NOTICE DATED 17.03.2023 BEARING DIN NO. ITBA/AST/S/153C/2022-23/1050891160(1) ISSUED BY THE RESPONDENT UNDER SECTION 153C OF THE INCOME TAX ACT FOR THE ASSESSMENT YEAR 2020-21

Exhibit P-3(f) A TRUE COPY OF THE NOTICE DATED 17.03.2023 BEARING DIN NO. ITBA/AST/S/153C/2022-23/1050891155(1) ISSUED BY THE RESPONDENT UNDER SECTION 153C OF THE INCOME TAX ACT FOR THE ASSESSMENT YEAR 2021-22

Exhibit P-4 A TRUE COPY OF THE NOTICE DATED 23.06.2023 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1053900596(1) ISSUED BY THE RESPONDENT UNDER SECTION 142(1) OF THE INCOME TAX ACT FOR THE ASSESSMENT YEAR 2015-16

Exhibit P-4(a) A TRUE COPY OF THE NOTICE DATED 23.06.2023 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1053900657(1) ISSUED BY THE RESPONDENT UNDER SECTION 142(1) OF THE INCOME TAX ACT FOR THE ASSESSMENT YEAR 2016-17



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- Exhibit P-4(b) A TRUE COPY OF THE NOTICE DATED 23.06.2023 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1053900778(1) ISSUED BY THE RESPONDENT UNDER SECTION 142(1) OF THE INCOME TAX ACT FOR THE ASSESSMENT YEAR 2017-18
- Exhibit P-4(c) A TRUE COPY OF THE NOTICE DATED 23.06.2023 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1053900844(1) ISSUED BY THE RESPONDENT UNDER SECTION 142(1) OF THE INCOME TAX ACT FOR THE ASSESSMENT YEAR 2018-19
- Exhibit P-4(d) A TRUE COPY OF THE NOTICE DATED 23.06.2023 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1053900909(1) ISSUED BY THE RESPONDENT UNDER SECTION 142(1) OF THE INCOME TAX ACT FOR THE ASSESSMENT YEAR 2019-20
- Exhibit P-4(e) A TRUE COPY OF THE NOTICE DATED 23.06.2023 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1053901006(1) ISSUED BY THE RESPONDENT UNDER SECTION 142(1) OF THE INCOME TAX ACT FOR THE ASSESSMENT YEAR 2020-21
- Exhibit P-4(f) A TRUE COPY OF THE NOTICE DATED 23.06.2023 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1053901045(1) ISSUED BY THE RESPONDENT UNDER SECTION 142(1) OF THE INCOME TAX ACT FOR THE ASSESSMENT YEAR 2021-22
- Exhibit P-5 A TRUE COPY OF THE NOTICE DATED 10.08.2023 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1055052627(1) ISSUED BY THE RESPONDENT UNDER SECTION 142 (1) OF THE INCOME TAX FOR ASSESSMENT YEAR 2015-16
- Exhibit P-5(a) A TRUE COPY OF THE NOTICE DATED 10.08.2023 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1055052704(1) ISSUED BY THE RESPONDENT UNDER SECTION 142 (1) OF THE INCOME TAX



FOR ASSESSMENT YEAR 2016-17

- Exhibit P-5(b) A TRUE COPY OF THE NOTICE DATED 10.08.2023 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1055052765(1) ISSUED BY THE RESPONDENT UNDER SECTION 142 (1) OF THE INCOME TAX FOR ASSESSMENT YEAR 2017-18
- Exhibit P-5(c) A TRUE COPY OF THE NOTICE DATED 10.08.2023 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1055052828 (1) ISSUED BY THE RESPONDENT UNDER SECTION 142 (1) OF THE INCOME TAX FOR ASSESSMENT YEAR 2018-19
- Exhibit P-5(d) A TRUE COPY OF THE NOTICE DATED 10.08.2023 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1055052921(1) ISSUED BY THE RESPONDENT UNDER SECTION 142 (1) OF THE INCOME TAX FOR ASSESSMENT YEAR 2019-20
- Exhibit P-5(e) A TRUE COPY OF THE NOTICE DATED 10.08.2023 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1055052997(1) ISSUED BY THE RESPONDENT UNDER SECTION 142 (1) OF THE INCOME TAX FOR ASSESSMENT YEAR 2020-21
- Exhibit P-5(f) A TRUE COPY OF THE NOTICE DATED 10.08.2023 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1055053065(1) ISSUED BY THE RESPONDENT UNDER SECTION 142 (1) OF THE INCOME TAX FOR ASSESSMENT YEAR 2021-22
- Exhibit P-6 A TRUE COPY OF THE NOTICE DATED 11.08.2023 BEARING DIN NO. ITBA/COM/F/17/2023-24/1055061637(1) ISSUED BY THE RESPONDENT
- Exhibit P-7 A TRUE COPY OF THE NOTICE DATED 08.12.2023 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1058595847(1) ISSUED BY THE RESPONDENT UNDER SECTION 142 (1) OF THE INCOME TAX



FOR ASSESSMENT YEAR 2015-16

- Exhibit P-7(a) A TRUE COPY OF THE NOTICE DATED 08.12.2023 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1058596537(1) ISSUED BY THE RESPONDENT UNDER SECTION 142 (1) OF THE INCOME TAX FOR ASSESSMENT YEAR 2016-17
- Exhibit P-7(b) A TRUE COPY OF THE NOTICE DATED 08.12.2023 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1058597168 (1) ISSUED BY THE RESPONDENT UNDER SECTION 142 (1) OF THE INCOME TAX FOR ASSESSMENT YEAR 2017-18
- Exhibit P-7(c) A TRUE COPY OF THE NOTICE DATED 08.12.2023 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1058597873(1) ISSUED BY THE RESPONDENT UNDER SECTION 142 (1) OF THE INCOME TAX FOR ASSESSMENT YEAR 2018-19
- Exhibit P-7(d) A TRUE COPY OF THE NOTICE DATED 08.12.2023 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1058598540(1) ISSUED BY THE RESPONDENT UNDER SECTION 142 (1) OF THE INCOME TAX FOR ASSESSMENT YEAR 2019-20
- Exhibit P-7(e) A TRUE COPY OF THE NOTICE DATED 08.12.2023 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1058599628(1) ISSUED BY THE RESPONDENT UNDER SECTION 142 (1) OF THE INCOME TAX FOR ASSESSMENT YEAR 2020-21
- Exhibit P-7(f) A TRUE COPY OF THE NOTICE DATED 08.12.2023 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1058600357(1) ISSUED BY THE RESPONDENT UNDER SECTION 142 (1) OF THE INCOME TAX FOR ASSESSMENT YEAR 2021-22
- Exhibit P-8 A TRUE COPY OF THE NOTICE DATED 21.12.2023 BEARING DIN NO. ITBA/AST/F/142(1)/2023-



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24/1058967934(1) UNDER SECTION 142(1) FOR
THE ASSESSMENT YEAR 2019-20 ISSUED BY THE
RESPONDENT

Exhibit P-9 A TRUE COPY OF THE REPLY DATED 08.01.2024
SUBMITTED BY THE PETITIONER

Exhibit P-10 A TRUE COPY OF THE ADDITIONAL REPLY DATED
12.01.2024 SUBMITTED BY THE PETITIONER

Exhibit P-11 A TRUE COPY OF THE ORDER DATED 19.01.2024
BEARING DIN NO. ITBA/AST/F/17/2023-
24/1059908132(1) PASSED BY THE RESPONDENT

Exhibit P-12 A TRUE COPY OF THE NOTICE DATED 27.01.2024
BEARING DIN NO. ITBA/COM/F/17/2023-
24/1060165699(1) ISSUED BY THE RESPONDENT

Exhibit P-13 A TRUE COPY OF THE REPLY DATED 01.02.2024
SUBMITTED BY THE PETITIONER

Exhibit P-14 A TRUE COPY OF THE ADDITIONAL REPLY DATED
08.02.2024 SUBMITTED BY THE PETITIONER

Exhibit P-15 A TRUE COPY OF THE NOTICE DATED 13.02.2024
BEARING DIN NO. ITBA/AST/F/142(1)/2023-
24/1060877688(1) ISSUED BY THE RESPONDENT
UNDER SECTION 142 (1) OF THE INCOME TAX
FOR ASSESSMENT YEAR 2015-16

Exhibit P-15(a) A TRUE COPY OF THE NOTICE DATED 13.02.2024
BEARING DIN NO. ITBA/AST/F/142(1)/2023-
24/106087744 (1) ISSUED BY THE RESPONDENT
UNDER SECTION 142 (1) OF THE INCOME TAX
FOR ASSESSMENT YEAR 2016-17

Exhibit P-15(b) A TRUE COPY OF THE NOTICE DATED 13.02.2024
BEARING DIN NO. ITBA/AST/F/142(1)/2023-
24/1060877993 (1) ISSUED BY THE RESPONDENT
UNDER SECTION 142 (1) OF THE INCOME TAX



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FOR ASSESSMENT YEAR 2017-18

Exhibit P-15(c) A TRUE COPY OF THE NOTICE DATED 13.02.2024 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1060877183 (1) ISSUED BY THE RESPONDENT UNDER SECTION 142 (1) OF THE INCOME TAX FOR ASSESSMENT YEAR 2018-19

Exhibit P-15(d) A TRUE COPY OF THE NOTICE DATED 13.02.2024 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1060877536(1) ISSUED BY THE RESPONDENT UNDER SECTION 142 (1) OF THE INCOME TAX FOR ASSESSMENT YEAR 2019-20

Exhibit P-15(e) A TRUE COPY OF THE NOTICE DATED 13.02.2024 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1060877334(1) ISSUED BY THE RESPONDENT UNDER SECTION 142 (1) OF THE INCOME TAX FOR ASSESSMENT YEAR 2020-21

Exhibit P-15(f) A TRUE COPY OF THE NOTICE DATED 13.02.2024 BEARING DIN NO. ITBA/AST/F/142(1)/2023-24/1060878090(1) ISSUED BY THE RESPONDENT UNDER SECTION 142 (1) OF THE INCOME TAX FOR ASSESSMENT YEAR 2021-22.