

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-06-2026

CORAM

THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY

WP No. 6230 of 2022

&

WMP Nos.6293 & 6295 of 2022

M/s.Schwing Stetter (India) Private Limited
F 71, SIPCOT Industrial Park, Irungattukottai,
Sriperumpudur Taluk, Kanchipuram District-602
105 Rep. by its Chief Financial Officer, and
Company Secretary Srinivasachari Jagannathan

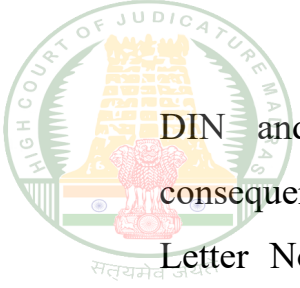
..Petitioner(s)

Vs

1. Additional /Joint/ Deputy/ Assistant
Commissioner of
Income Tax/ Income Tax Officer, National
Faceless Assessment Centre, Delhi.
2. The Assistant Commissioner of Income Tax,
Circle-1, Large Tax Payer Unit, 121, M.G.
Road, Nungambakkam, Chennai-34.

..Respondent(s)

Prayer: This writ petition is filed under Article 226 of the Constitution of India praying for issuance of writ of certiorari calling for records of the case on the file of respondents and quash the impugned notice u/s.148 of the Act dated 30.03.2021 passed by the 2nd respondent for the Assessment Year 2015-16 in DIN and Notice No.ITBA/ AST/ S/ 148/ 2020-21/ 1031904148(1) and the consequential order dated 24.01.2022 passed by the 1st respondent in DIN and Letter No.ITBA/ AST/ F/ 17/ 2021-22/ 1039020611(1) rejection the objections raised by the petitioner AMENDED AS Calling for the records of the Petitioner in PAN AADCS5069D and quash the Impugned Notice u/s.148 of the Act dated 30.03.2021 issued by the 2nd Respondent for the Assessment Year 2015-16 in



DIN and Notice No. ITBA/AST/S/148/2020-21/1031904148(1) and the consequential order dated 24.01.2022 passed by the 1st Respondent in DIN and Letter No. ITBA/AST/F/17/2021-22/1039020611(1) rejecting the objections raised by the Petitioner and quash the Impugned Order u/s.147 r.w.s. 144B of the Income Tax Act, 1961, dated 31.03.2022 in DIN. ITBA/AST/S/147/2021-22/1042242676(1) and pass. (PRAYER AMENDED VIDE ORDER DATED 17.03.2026 MADE IN WMP.17607/2025 IN WP.6230/2022 BY CSNJ)

For Petitioner(s): Mr.R.Venkatanarayanan
for M/s.Subbaraya Aiyar Padmanabhan
Ramamani

For Respondent(s): Mrs.S.Premalatha, SPC

ORDER

In relation to assessment year 2015-16, the petitioner filed the return of income on 30.11.2015. Along with said return of income, the petitioner enclosed the financial statement for financial year 2014-15. The assessing officer issued notice under Section 142(1) of the Income-Tax Act, 1961 (the I-T Act) calling upon the petitioner to provide the information requested for in the annexure thereto. Such information included details of large expenses claimed in the profit and loss account. The petitioner replied to said notice on 14.09.2018 providing the information requested for. In particular, the assessing officer was informed about the expenses debited in the profit and loss account towards net loss on foreign currency transactions and translation. Thereafter, original assessment order dated 28.01.2019 was issued. No disallowance was made in respect of the claim of net loss on foreign currency transactions. Said



order expressly dealt with disallowance of the provision for warranty.

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2. Later, notice under Section 148 of the I-T Act was issued on 30.03.2021. The petitioner requested for reasons for reopening of the assessment and, in response thereto, reasons were furnished on 22.09.2021. In said document, it is recorded as under:

“The assessee company is engaged in the manufacturing and sale of concrete mixers concrete pumps, components and related spares and services. The assessee filed a return of income on 31.11.2015 by declaring an income of Rs.14,94,50,150 under normal provisions and a book profit of Rs. 46,77,45,000. An order u/s 143(3) r.w.s. 144C of the I.T.Act, 1961 was completed on 28.01.2019 determining the assessed income at Rs.25,41,01,314.

1. Upon perusal of the Note 29 appended to the P&L Account for the year ended 31.03.2015 it was noted that the assessee has debited an amount of Rs.6,56,98,000 towards Net loss on foreign currency transactions and translation. In the Notes (No.2.10 Foreign currency transactions) to financial statements for the year ended 31.03.2015, it is stated that the derivatives are marked to market and loss arising from such derivatives are recognised in the statement of Profit and loss. This being notional in nature and not actually expended needs disallowance. Further the provision of warranty amounting to



Rs.1,95,94,545 needs to be disallowed while computing book profit u/s 115JB.”

WEB COPY The reassessment order was issued pursuant thereto. The petitioner had approached this Court prior thereto by challenging the notice under Section 148 and the order rejecting the objections raised by the petitioner with regard to reopening of the assessment. After the assessment order was issued upon reassessment, the prayer was amended to challenge such order.

3. Learned counsel for the petitioner referred to the notice under Section 142(1), the reply thereto and the financial statement of the petitioner. In particular, he invited my attention to Note 29 to the profit and loss account and to paragraph 2.10 of the Notes to financial statements for the year ended 31.03.2015. By drawing a comparison between the information disclosed in the said financial statement and the reasons for reopening the assessment, learned counsel contended that the assessment was reopened on the basis of information furnished in the financial statement and enclosed with the original return of income. Learned counsel contends that this amounts to reopening of an assessment on the basis of a change of opinion, which is not permissible. In support of this contention, he relies upon the judgment of this Court in *Pon Pure Chemical India (P) Ltd. v. Assistant Commissioner of Income-tax, [2025] 172 taxmann.com 93(Madras) (Pon Pure Chemical)*. He points out that the fact



situation in the said judgment is nearly identical to the fact situation in the present case.

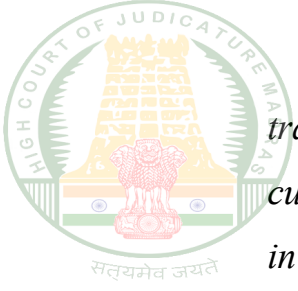
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4. These contentions are countered by learned standing counsel for the Income-tax Department. Referring to the order dated 24.01.2022 rejecting the objections of the petitioner, learned counsel submits that the assessment may be reopened if the assessing officer has reason to believe that income has escaped assessment as long as the original assessment order does not consciously consider and record findings on the material placed on record by the assessee. She relies on the judgment of the Gujarat High Court in *Green Finance Ltd. v. Joint CIT, (2000) 243 ITR 482 (Guj)* in support of this proposition.

5. The record shows that the petitioner had enclosed the financial statement for financial year 2014-15, which corresponds to assessment year 2015-16, along with the return of income. Note 29 to the profit and loss account records the net loss of foreign currency transactions and translation in a sum of Rs.65,698,000. Paragraph 2.10 of the notes to financial statement reads as under:

“2.10 Foreign currency transactions

Foreign currency transactions are accounted at the exchange rates prevailing on the date of the relevant



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transactions. Exchange differences arising on foreign currency transactions settled during the year are recognized in the statement of profit and loss of the year. Monetary assets and liabilities denominated in foreign currencies as at the balance sheet date are translated at the closing exchange rates on that date. The resultant exchange differences are recognized in the statement of profit and loss.

In relation to the forward contracts entered into to hedge the foreign currency risk of the underlying outstanding at the balance sheet date, the exchange difference is calculated as the difference between the foreign currency amount of the contract translated at the exchange rate at the reporting date, or the settlement date where the transaction is settled during the reporting period, and the corresponding foreign currency amount translated at the later of the date of inception of the forward exchange contract and the last reporting date. Such exchange differences are recognized in the statement of profit and loss in the reporting period in which the exchange rates change. Premium or discount arising at the inception of forward exchange contracts is amortized as expense or income over the life of the contract. Any profit or loss arising on the cancellation or renewal of forward contracts is recognised as income or as expense for the period.

In accordance with the announcement of "Accounting for Derivatives made by the Institute of Chartered Accountants of India" (ICAI) on March 29, 2008, derivatives are marked to



market, and loss arising out of such derivatives are recognised in the Statement of profit and loss.”

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6. In the notice under Section 142(1) of the I-T Act, the assessing officer had requested for information relating to about 11 items, including details of large expenses claimed in the profit and loss account. By reply dated 14.09.2018, the assessee had provided such details. With specific reference to net loss on foreign currency transactions, the assessee had provided the details contained in Note-29 to the financial statement.

7. Thus, the documents on record disclose in no uncertain terms that the assessing officer had called for information pertaining to large expenses claimed in the profit and loss account and such information was provided by the assessee. The original assessment order was issued thereafter on 28.01.2019 without making any disallowance in relation thereto. As regards the second reason mentioned for reopening the assessment, namely, provision for warranty, said issue has been expressly considered in the original assessment order.

8. The order providing reasons for reopening the assessment was extracted supra at paragraph 2. On comparing the above reasons for reopening with the reply of the petitioner to the notice under Section 142(1), note 29 and para 2.10 to the notes to accounts, it is clear that the assessment was reopened based on



material provided with the original return of income and, in fact, in relation to an issue raised prior to the original assessment. I concur with the opinion expressed in *Pon Pure Chemical* in this regard.

9. This is akin to reviewing and revising the earlier assessment on a change of opinion, which is impermissible.

10. For reasons aforesaid, the impugned order issued on reassessment and the notices and orders prior thereto, which are the subject matter of challenge in this writ petition, are set aside.

11. The writ petition is disposed of on the above terms. Consequently, connected miscellaneous petitions are closed. No costs.

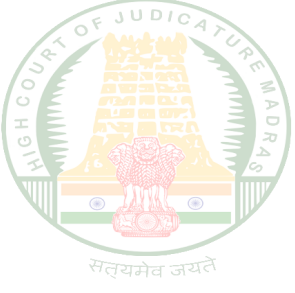
11-06-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

KAL



1. Additional /Joint/ Deputy/ Assistant Commissioner of
Income Tax/ Income Tax Officer,
National Faceless Assessment Centre,
Delhi.
2. The Assistant Commissioner of Income Tax,
Circle-1, Large Tax Payer Unit, 121,
M.G. Road, Nungambakkam, Chennai-34.



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SENTHILKUMAR RAMAMOORTHY, J.

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