IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-08-2026

CORAM

THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY

WP Nos. 2711 of 2026, 1618 of 2026, 30650 of 2026
& 10443 of 2025
&
WMP Nos.2973, 2974, 24189 & 5502 of 2026 & 11745 of 2025

W.P.No.2711 of 2026

S Venkataramanan
S/o. V. Sri Rangarajan,
Partner, M/s. RJK, Investments,
Door No. 1/147-A, Keli Amman Koil Street,
K.P.K. Nagar, Kelambakkam,
Chinglepet - 603 301.

..Petitioner

Vs

1. The Principal Commissioner Of Income Tax-4
   Income Tax Department,
   No.121, Mahatma Gandhi Road,
   Nungambakkam,
   Chennai-600 034

2. The Tax Recovery Officer -4
   Income Tax Department,
   3rd Floor, Room No. 327-B, Wanaparthy
   Block,
   No. 121, Mahatma Gandhi Road,
   Nungambakkam,
   Chennai - 600 034

3. M/s. RJK Investments
   Rep. By its Partners,1. T.A.S.C. Jawahar Ayya,
   2. Kamesh Kumar Sheth,No.5, Alsa Regency,
   No. 16, Eldams Road,Alwarpet,
   Chennai - 600 018

..Respondent(s)

W.P.No.1618 OF 2026

Kamalesh Kumar Sheth
S/o. Late. P.M.Dowlathram,
No. 42, Ranganathan Avenue,East Coast Road,
Uthandi, Chennai 119. ..Petitioner

vs

1.The Principal Commissioner Of Income Tax 4
Income Tax Department,
No.121 Mahatma Gandhi Road,
Nungambakkam, Chennai 34.

2.The Tax Recovery Officer 4
INCOME TAX DEPARTMENT
3rd Floor, Room No. 327 - B,
Wanaparthy Block,
No. 121, Mahatma Gandhi Road,
Nungambakkam, Chennai 34.

3.M/s. RJK INVESTMENTS
Rep by its Partner Mr. Jawahar Ayya
A-5, Sagar Living Apartments, Sea View,
No.35, CLV Nagar Road, Kanathur Reddy Kuppam,
Kanathur, Chennai 103. ..Respondents

W.P.No.30650 OF 2026

S. Sajin Kumar
S/o.Sivakumar
No.4/12, Periyama Nagar,
Thaiyur, Kancheepuram District,
Tamil Nadu 603 103.

..Petitioner(s)

Vs 1.

1. The Principal Commissioner of Income Tax - 4
Income Tax Department
No.121 Mahatma Gandhi Road
Nungambakkam
Chennai 600034.

2.The Tax Recovery Officer - 4
Income Tax Department, 3rd Floor,
Room No. 327-B, Wanaparthy Block,No.121,
Mahatma Gandhi Road, Nungambakkam,
Chennai 600 034.

3.M/S.RJK Investments
Rep. by its Partners
No.5, Alsa Regency,
No.16, Eldams Road,
Alwarpet, Chennai 600018.

4.S Venkataramanan
Partner, M/s. RJK Investments, Door No.1/147-A,
Keli Amman Koil Street, K.P.K. Nagar,
Kelambakkam, Chengalpet 603 301.

5.TASC Jawahar Ayya
A5, Sagar Living Apartments,
Sea View, No.35, CLV Nagar Main Road,
Kannathur Reddy Kuppam,
Kannathur, Chennai 603 103.

6.Kamlesh Kumar Sheth
No. 42, Ranganathan Avenue,
East Coast Road, Uthandi,
Chennai 600 119. ..Respondents

W.P.No.10443 of 2025

S Venkataramanan
S/o.V.Sri Rangarajan, Door No.1/147A,
Keli Amman Koil Street, K.P.K.Nagar,
Kelambakkam, Chinglepet-603 301 ..Petitioner

vs

1.The Principal Commissioner Of Income Tax-4
Income Tax Department, No.121,
Mahatma Gandhi Road,
Nungambakkam,
Chennai-600 034.

2.The Tax Recovery Officer 4

Income Tax Department, 3rd Floor,
Room No. 327-B, Wanaparthy Block,
No. 121, Mahatma Gandhi Road,
Nungambakkam, Chennai-600 034. ..Respondents

PRAYER IN W.P.No.2711 OF 2026: This writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus to call for the records and to quash the impugned Sale Notice dated 18.12.2025 issued by the 2nd Respondents published in one issue of English Daily THE HINDU and consequently direct the Respondents 1 to 2 to consider the Petitioners objections/claim dated 12.02.2025 filed under Rule 11 of the 2nd Schedule of the Income Tax Act and conduct investigation in accordance with the Rules envisaged therein after giving due opportunity to the Petitioner.

PRAYER IN W.P.No.1618 OF 2026: This writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the Respondents 1 & 2 to sell the attached properties situated (i) Flat No. 201, 2nd Floor, measuring to an extent of 3640 sq. ft and Flat No. 601, 4th Floor, measuring to an extent of 3640 sq. ft. at Plot No. B, 4th Avenue, Shanti Colony, Anna Nagar, Chennai - 600 040 (ii) Pudupakkam Village, Chinglepattu Taluk, Kancheepuram District comprised in S. No. 127/4 and S. No. 72/8 and (iii) Paramankeni Village, Chinglepattu Taluk, Kancheepuram District comprised in S. No. 499/4 and S. No. 499/2 for recovery of Tax of M/s.RJK Investments/3rd Respondent by invoking Schedule II of the Income Tax.

PRAYER IN W.P.No.30650 OF 2026: This writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing Respondent Nos. 1 and 2 to confirm the auction sale conducted on 28 01 2026 in favour of the petitioner and execute the sale certificate in respect of the vacant land measuring 26 cents comprised in survey no 72/8 situate at Pudupakkam Village, Vandalur Taluk, then within Kancheepuram District, now within Chengelpet District.

PRAYER IN W.P.No.10443 of 2025: This writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the Respondents to consider the Petitioners Objection/claim dated 12.02.2025 and conduct investigation in accordance with the Rules envisaged under the Second Schedule of the Income Tax Act and dispose the same after giving due opportunity to the petition to put forth his contention with in a reasonable time.

For Petitioner in WP No.2711/2026: Mr.P.C.Harikumar
for M/s.Harikumar and Associates

For Petitioner in W.P.No.1618/2026: Ms.S.Vanithalakshmi

For Petitioner in W.P.No.30650/2026:Mr.M.Ravi Kiran
for M/s. Mothilal and Goda

For Petitioner in W.P.No.10443/2025:Mr.P.C.Harikumar

For Respondents in all WPs :Ms.S.Premalatha,
Sr. Standing Counsel for R1&R2

COMMON ORDER

Assessment orders were issued in respect of a partnership firm called M/s RJK Investments in respect of assessment years 2007-08 to 2011-12. The agreed position is that the assessee challenged only the assessment order relating to assessment year 2009-10. The appeal in respect of said assessment year was disposed of by order dated 23.08.2016.

2. Pursuant to the above mentioned assessment orders, demand notices under Sections 156 of the Income-Tax Act, 1961 (the I-T Act) were issued to the assessee and, upon default in discharging the dues, certificates were drawn up by the Tax Recovery Officer (the TRO) under Section 222 of the I-T Act. This was followed by the issuance of notices under Rule 2 of II Schedule of the I-T Act to the defaulting assessee. Thereafter, proceedings for the attachment and sale of the immovable property of the partnership firm were initiated. Proceedings were also initiated for the sale of the immovable property of Jawahar Ayya, a partner of the firm. This was challenged in W.P. No.8101 of 2025, which was disposed of on 06.08.2026. All these writ petitions pertain to the sale of the immovable properties of the partnership firm.

3. In W.P.No.10443 of 2025, one of the partners of the said firm, Mr.S.Venkataramanan, seeks a mandamus for the consideration of his objection letter dated 12.02.2025. In W.P.No.2711 of 2026, said Venkataramanan challenges sale notice dated 18.12.2025 and also seeks a consequential direction to consider objections dated 12.02.2025. W.P.No.1618 of 2026 was filed by another partner, Kamalesh Kumar Sheth, seeking a direction for the sale of the assets described in the petition, which includes lands in S.Nos.127/4 and 72/8 at Pudupakkam Village, Chenglepet Taluk, Kanchipuram District, which are the assets of the partnership firm. The auction purchaser in respect of the land at S.No.72/8 has filed W.P.No.30650 of 2026

for confirmation of the auction sale conducted on 28.01.2026 and for the execution of a sale certificate in his favour. All these writ petitions are disposed of by this common order.

4. The contentions of Mr.Hari Kumar, learned counsel for Mr.S.Venkataramanan, may be summarized as under:

(i) The managing partners of this firm were Mr.Jawahar Ayya and Kamalesh Kumar. Venkataramanan was not a signatory to the Income-tax returns and was merely a working partner.

(ii) Notices relating to proceedings under the II Schedule were not served on Mr.Venkataramanan. Rules 49 and 53 of the II Schedule were contravened.

(iii) The order disposing of the objections raised on 12.02.2025 was not served on Mr.Venkataramanan. Said order was sent to the address of the partnership firm and not to Mr.Venkataramanan.

(iv) The sale notice does not specify the boundaries of the property.

(v) In sale notice dated 15.01.2025, the property admeasuring 33 cents was valued at Rs.1,36,15,000/-, whereas, in subsequent sale notice dated 18.12.2025, the property was valued at Rs.74,10,000/-. On the contrary, the property admeasuring 26 cents was valued at Rs.33,18,000/- in sale notice dated 15.01.2025 and at Rs.58,20,000/- in sale notice on 18.12.2025. This shows that these properties were not properly valued and such improper valuation vitiates the auction sale process.

(vi) The Income-Tax Department has failed to provide particulars about the number of bidders at the auction sale and the bids placed by each bidder.

(vii) Although Mr.S.Sajin Kumar was declared as the highest bidder in relation to the property bearing S.No.72/8, all payments were under demand drafts purchased by one Sivakumar. The receipt in relation to earnest money deposits was issued in the name of Mr.P.Kesavan.

(viii) As a result of collusion between the TRO and the auction purchasers, these assets have been sold below fair market value.

(ix) The amendment to Rule 68B of the II Schedule cannot be applied retrospectively. Hence, proceedings are barred by limitation.

5. The submissions of Ms.Premalatha, learned senior standing counsel, in response to these contentions may be summarized as under:

(i) The objections of Mr.Venkataramanan under Rule 11 of the II Schedule were considered and disposed of on 28.02.2025. Each objection raised in the objection letter was dealt with therein.

(ii) Notice to individual partners in relation to proceedings under the II Schedule is unnecessary. The judgment of Allahabad High Court in *Ram Das Jaiswal v. Income-Tax Officer, [1971] 79 ITR 570,* is relied upon.

(iii) The first auction in relation to these properties was held on

25.11.2019. Said auction was unsuccessful because the highest bid was less than the reserve price. Consequently, the Income-Tax Department is entitled to an extension of the limitation period by one year under the proviso to Rule 68B.

(iv). All the partners of M/s RJK Investments agreed to the sale of the firm's property. A communication from said partners is relied upon in support of this submission.

(v) Without prejudice to the contention that notice to individual partners is not necessary, communication dated 24.02.2025 was sent to Mr.Venkataramanan and said communication was returned 'unclaimed'. Similarly, another communication dated 05.03.2025 was also sent and returned 'unclaimed'. The report dated 25.03.2025 of the tax recovery inspector is relied on in this regard.

(vi) The sale proclamation notice dated 18.12.2025 was refused to be received by Mr.Venkataramanan.

(vii) Notice dated 14.02.2017 under Section 188A was served on Mr.Venkataramanan through his father on 23.02.2017.

(viii) The auction sale was preceded by a valuation report dated 10.10.2024. The guideline value is Rs.80,00,000/- per acre and both properties were sold for a much higher price.

(ix) Bidder details were not disclosed because of earlier order dated 27.01.2026 of this Court directing the Income-Tax Department not to declare the results.

(x) Proceedings are not barred by limitation as held by this Court earlier in order dated 06.08.2026 in W.P.No.8101 of 2026.

6. Mr.Ravi Kiran, learned counsel for the auction purchaser and petitioner in W.P.No.30650 of 2026, made the following submissions:

(i) As against the guideline value of Rs.35.70 lakhs, 26 cents in S.No.72/8 was purchased for a sum of Rs.2.36 crore.

(ii) All payments were made from the bank account of Mr.Sivakumar, father of Mr.S.Sajin Kumar, by purchasing demand drafts.

(iii) Survey Nos.72/8 and 127 are not contiguous.

(iv) Prior to the auction sale, Mr.Sajin Kumar endeavoured to purchase the property under a private treaty and an affidavit agreeing to sell the property was executed by all the partners of M/s RJK Investments in relation thereto. The original affidavit is handed over for the Court's perusal.

<u>Discussion, analysis and Conclusions:</u>

Limitation

7. The first aspect to be dealt with is in relation to limitation. In order dated 06.08.2026 in W.P.No.8101 of 2026 (*TASC Jawaahar Ayya v. The Principal Commissioner of Income Tax 4 and others, 2026:MHC:3374)*, the question of limitation was dealt with extensively in relation to the auction sale of the properties of TASC Jawahar Iyya, one of the partners of M/s RJK

Investments. After dealing with Rule 68B of the II Schedule of the I-T Act in considerable detail, a conclusion was reached that proceedings to enforce the certificates issued in respect of the defaulting assessee were barred by limitation with regard to assessment years 2007-08 and 2008-09, whereas such proceedings were not barred in relation to assessment years 2009-10 to 2011-12. In course of said judgment, the contention relating to retrospective application of the amendment to Rule 68B was also dealt with. Relying on the judgment of the Hon'ble Supreme Court in *Union of India v. Uttam Steel Ltd, 2015 SCC Online SC 512,* it was concluded that the amendment would not apply in cases wherein the period of limitation had expired prior to the entry thereof, whereas it would apply to cases where the original limitation period was alive at the time of entry of the amendment. For said reason, the contention of Mr.Hari Kumar in relation to limitation is rejected.

Non-issuance of notice to individual partners

8. Mr.Hari Kumar contended that it is necessary to issue notices to individual partners before initiating action to enforce and satisfy a certificate under the II schedule. The assessee in this case is M/s RJK Investments. After assessment orders were issued against said assessee, demand notices were issued under Section 156 of the I-T Act demanding payment of dues as per the respective assessment orders. Upon the assessee failing to satisfy such demand

within the prescribed 30 day period, the assessee became an assessee in default. Therefore, certificates were drawn up by the TRO under Section 222 of the I-T Act. These certificates were drawn up in the name of the partnership firm. A notice under Rule 2 of the II Schedule is required to be issued to the defaulter and defaulter is defined in Rule 1(b) as meaning "the assessee mentioned in the certificate". Therefore, notices under Rule 2 of the II Schedule were issued to the partnership firm. Said notices were served on the partnership firm. Because the partnership firm failed to make payment in terms of the Rule 2 notices within the 15 day period prescribed therein, further proceedings to enforce the certificates were taken in compliance with Rule 3. In this context, the question arises as to whether it is necessary to send notice to individual partners.

9. In these cases, the admitted position is that the auction sale relates to two assets of the partnership firm. By virtue of Section 188A of the I-T Act, joint and several liability is imposed on the partners as regards the dues of the firm. All the rules in the II Schedule dealing with issuance of notice in relation to attachment and sale of assets, such as Rules 49 and 53, only provide for notice to the defaulter. By contrast, an application to set aside the sale under Rules 60 and 61 may also be made by a person whose interests are affected by the sale. As noticed in the earlier paragraph, the definition of defaulter is confined to the person mentioned in the certificate. Effectively, unless the expression "defaulter" in Rule 1(b) is read as including partners of a defaulting

firm or the certificate mentions the names of individual partners, notices relating to the attachment and sale of the partner's assets need not be sent to such partner.

10. Only the owner of the property would be directly affected by the sale of his/her property. Illustratively, if the reserve price is low in comparison to fair value or if the property does not fetch a fair market value in course of auction, the person directly affected would be the individual owner of the property. Rules 60 and 61 also enable the defaulter or person affected to apply to set aside the sale subject to compliance with deposit requirements prescribed therein. As with all definition provisions, Rule 1 of the II Schedule contains the qualification "unless the context otherwise requires". If proceedings were to be initiated against the asset of an individual partner by enforcing such joint and several liability, for reasons aforesaid, I conclude that the context requires that the expression "defaulter" in Rule 1(d) be read as including the individual partner against whose asset(s) recovery measures are proposed to be taken. In support of such construction, it is sufficient to cite *Vanguard Fire and General Insurance Co. Ltd. v. Fraser and Ross, AIR 1960 SC 971,* where the Supreme Court held, in relevant part, as under:

> "*6.... It is well settled that all statutory definitions or abbreviations must be read subject to the qualification*

variously expressed in the definition clauses which created them and it may be that even where the definition is exhaustive inasmuch as the word defined is said to mean a certain thing, it is possible for the word to have a somewhat different meaning in different sections of the Act depending on the subject or the context. That is why all definitions in statutes generally begin with the qualifying words used in the present case, namely, unless there is anything repugnant in the subject or context....”

11. Hence, insofar as proceedings under the II Schedule relate to measures for the sale of an individual partner’s property, it would certainly become necessary to serve notice on such partner. On the other hand, if the TRO were to proceed against the assets of the firm/assessee-in-default, it is sufficient if the notices contemplated in the II schedule were to be served on the assessee-in-default, and the context does not support a departure from the statutory definition. Keeping in mind these principles, I turn to the facts of these cases.

Whether notices were served?

12. As regards the three assessment years (2009-10 to 2011-12) in relation to which proceedings for auction sale are within the limitation period in Rule 68B, three Rule 2 notices were despatched to the firm on 28.11.2014 and 13.07.2016. The acknowledgment evidences receipt on behalf of the firm. The order of attachment dated 05.05.2015 of the immovable properties of the firm

was addressed to the firm and received on behalf of the firm by Mr. Kamalesh Kumar Sheth, Partner, on 15.06.2015. A subsequent attachment was also made on 16.10.2019. The notice for settling the sale proclamation was issued on 10.07.2025. Said notice was addressed to the partnership firm and copies thereof were sent to the three partners. Upon receipt of said notice, Mr.Venkataramanan raised objections on 21.07.2025.

13. The sale proclamation notice was issued on 18.12.2025. Said notice was also addressed to the partnership firm and copies thereof were marked to several persons, including all three partners of the firm. The tracking report from the postal department shows that Mr.Venkataramanan refused to receive the notice. If an application had been filed by Mr. Venkataramanan under Rule 61 instead of approaching this Court, such application would have been rejected unless the amount recoverable had been deposited as a pre-condition and substantial injury was established as a result of non-service or irregularity. Considering these facts, I conclude that it cannot be said that applicable rules in the II schedule or the principles of natural justice were violated even proceeding on the assumption that it was necessary to send notices to individual partners.

Valuation of the properties

14. Both Ms.Premalatha and Mr.Ravi Kiran contended that the guideline value of the firm's properties is Rs.80,00,000/- per acre. In the affidavit

executed by the three partners of M/s RJK Investments on 26.09.2024, the guideline value is recorded as Rs.1,35,000/- per cent, which corresponds to Rs.1,35,00,000/- per acre. It is also stated in said affidavit that the market value is Rs.2,50,000/- per cent. The purchase price in respect of the property admeasuring 26 cents is R.2,36,00,000/- and the purchase price in respect of the property admeasuring 33 cents is Rs.3,11,00,000/-. Thus, the purchase prices are much higher than the guideline value or the market price as per the above affidavit. While Mr.Venkataramanan raises an objection to the effect that the prices were below the fair market value, neither in the objection letter dated 14.02.2025 nor in course of proceedings before this Court was any evidence filed to indicate that the auction sale price was below the fair market value.

15. Referring to the reduction in the reserve price of the land admeasuring 33 cents and the increase in the reserve price of the land admeasuring 26 cents, on comparison of sale notices dated 15.01.2025 and 18.12.2025, Mr.Hari Kumar contended that said revision to the reserve prices indicates that the valuation was improper. In response, it was submitted that by Mr.Ravi Kumar that the two properties are not contiguous by relying on a map. Given the fact that auction sale prices are much higher than the guideline value or even the market price mentioned in the affidavit signed by all three partners, in the context of there being no evidence that these properties were sold below the fair market value, I am unable to accept the contention of Mr.Hari Kumar.

Payments by Mr. Sivakumar and not by auction purchaser

16. Mr.Hari Kumar also contended that all the demand drafts were purchased by Mr.Sivakumar and not by Mr.Sajin Kumar, the auction purchaser, and that this vitiates the auction sale. This contention is completely devoid of merit. All the payments were made by way of demand drafts issued by the ICICI Bank. As long as the earnest money deposit and other payments were made by the bidder/successful auction purchaser as per the terms and conditions of auction sale, it is immaterial that the demand drafts were issued by the issuing bank from and out of the bank account of Mr.Sivakumar. In this regard, it should also be noticed that it is expressly averred that Mr.Sivakumar is the father of Mr.S.Sajin Kumar.

17. For reasons set out above, all the objections raised by Mr.Venkataramanan to the auction sale process are rejected as untenable. Consequently, these writ petitions are disposed of on the following terms:

(1) W.P.No.2711 of 2026 is dismissed without any order as to costs.

(2) W.P.No.10443 of 2025 is disposed of for reasons set out in this order and in view of the disposal of objections by order dated 28.02.2025. The Income-Tax Department shall hand over a signed copy of the order disposing of the objection petition so as to enable appropriate action by the petitioner. The

period of limitation for challenging such order shall be computed from the date of receipt of a signed copy.

(3) W.P.No.1618 of 2026 is closed in view of the order passed in writ petitions filed by Mr.Venkataramanan.

(4) W.P.No.30650 of 2026 is allowed by confirming the auction sale conducted on 28.01.2026 and by directing the TRO to execute a sale certificate in favour of the petitioner in relation to the land described in the writ petition. Consequently, connected miscellaneous petitions are closed. No costs.

24-08-2026

Index : Yes/No
Neutral Citation : Yes/No
KAL

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   Income Tax Department,
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