आयकर अपीलीय अधिकरण 'सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI

माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य एवं
माननीय अमिताभ शुक्ला, लेखासदस्य के समक्ष
BEFORE HON'BLE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
SHRI HON'BLE AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA Nos.191 & 194/Chny/2025
निर्धारण वर्ष /Assessment Years: 2017-18 & 2016-17

Mohit Chandak, 14, Chinna Thambi Street, Parrys, Chennai-600 001. [PAN: AOZPM 8624D]	**Vs.**	The Dy. Commissioner of Income Tax, Central Circle-3(3), Chennai.
(अपीलार्थी/**Appellant)**		**(**प्रत्यर्थी/**Respondent)**

अपीलार्थी की ओर से/ Appellant by	:	Shri D.Anand, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Ms. R. Anitha, Addl. CIT
सुनवाई की तारीख/Date of Hearing	:	16.06.2025
घोषणा की तारीख /Date of Pronouncement	:	09.07.2025

आदेश / **O R D E R**

PER MANU KUMAR GIRI (Judicial Member):

The captioned two appeals by the assessee are arising out of the orders of the Commissioner of Income Tax (Appeals), Chennai-20 ['CIT(A)' in short] both order dated 29.11.2024 for the assessment years 2016-17 & 2017-18 u/s.250 of the Income Tax Act, 1961 (hereinafter the 'Act').

2. Brief facts of the case are as under:

The appellant filed its original return of income for the assessment year under consideration on 06.10.2016 declaring a total income of Rs. 11,80,460/-. A survey u/s 133A of the Act was conducted in the case of the appellant on 24.01.2018. Based on the survey findings, assessment proceedings u/s 147 of the Act were initiated in the case of the appellant and notice u/s 148 of the Act was issued on 20.04.2021 and assessment order u/s 147 of the Act was passed on 31.03.2022 determining the assessed income at Rs.2,35,64,797/-. Subsequently, in connection with the notices issued u/s 148 between 01.04.2021 to 30.06.2021, the Hon'ble Supreme Court of India, vide Order in Civil Appeal No.3005/2022 dated 04.05.2022 in the case of Union of India & Ors vs Ashish Agarwal had issued directions that the impugned section 148 notices issued to the respective assessees which were issued under un-amended section 148 of the Act, shall be deemed to have been issued under section 148A(b) of the Act as substituted by the Finance Act, 2021. As per directions of the Hon'ble Supreme Court of India, a letter was issued to the appellant subsequently on 01.06.2022, treating the notice issued u/s 148 dated 20.04.2021 as Show Cause Notice in terms of section 148A(b) and the details of material/ information on the basis of which the assessment is sought to be reopened was also provided to the appellant vide letter dated 01.06.2022. Later, order u/s 148A(d) was passed on 31.07.2022 and proceedings u/s 147 was initiated by issue of notice u/s 148 of the Act dated 31.07.2022 as per new provisions.

During the course of survey, it was found that the appellant had claimed excess expenditure on salary from AY 2014-15 to AY 2017-18 which works out to Rs.1.26 crores as under:

AY	*Expenditure salary claimed (Rs. In lakh)*	*Actual salary Expenditure incurred (Rs. In lakh)*	*Excess claim of salary expenditure (Rs. In Lakh)*
2014-15	*15.08*	*0.94*	*14.14*
2015-16	*27.79*	*12.00*	*15.79*
2016-17	*43.68*	*12.84*	*30.84*
2017-18	*78.91*	*13.74*	*65.17*
Total	*165.46*	*39.52*	*125.94*

The appellant had submitted before the AO that the excess Salary expenditure of Rs.1,26,00,000/- had been offered in the year of survey i.e. AY 2018-19. The argument of the appellant was not accepted by the AO for the reason that as provisions of the Income-

tax Act, 1961, disallowance has to be made in the relevant Assessment Year in which excess claim of expenditure has beert made. Accordingly, an amount of Rs.30,84,000/- was disallowed and added to the total income of the assessee. The AO completed the assessment u/s 147 of the Act on 28.03.2023 determining an assessed income of Rs.42,64,460/- as under:

Returned income	*Rs. 11,80,460/-*
Add: Disallowance of salary expenditure	*Rs. 30,84,000/-*
Assessed income	*Rs. 42,64,460/-*

Aggrieved against the order of assessment u/s. 147 of the Act, the assessee filed an appeal before the ld. Commissioner of Income (Appeals).

3. On the legal issue, the ld. CIT(A) in its order at para 7.2.4 held as under:

"7.2.4 Thus, the Hon'ble Apex court has made it clear that after 1st April, 2021, the Income Tax Act has to be read along with the substituted provisions and that the directions in Ashish Agarwal (supra) will extend to all the ninety thousand reassessment notices issued under the old regime during the period 01.04.2021 to 30.06.2021. Since the notice u/s 148 of the Act in this case was issued between 01.04.2021 to 30.06.2021 as per provisions of un-amended section 148 of the Act, as per direction of the Hon'ble Apex Court, the notice u/s 148 of the Act dated 20.04.2021 has to be treated as Show Cause Notice in terms of section 148A(b) of the Act and the details of material/ information on the basis of which, the assessment was sought to be reopened ought to have been provided to the appellant. From the available records, it is noted that on 01.06.2022, the AO provided the relevant materials used for reopening proceedings subsequent to the decision of Hon'ble Apex Court in the case of Ashish Agarwal (supra) and order u/s 148A(d) of the Act was passed on 31.07.2022 and notice u/s 148 of the Act was also issued on 31.07.2022. Thus, it can be seen that the AO has correctly assumed as per the direction of the Hon'ble Apex Court in the case of Ashish Agarwal (supra). It is also to be noted that the Hon'ble Apex Court in the case of Rajeev Bansal (supra) has also

held that during the period between the issuance of the deemed notices and the date of judgment in Ashish Agarwal (supra), the assessing officers were deemed to have been prohibited from proceeding with the reassessment proceedings. In view of the same, while considering the appellant's appeal in for AY 2016-17 in ITA No.333/CIT(A)-20/2024-25 dated 29.11.2024, I have held that the assessment order u/s 147 of the Act dated 31.03.2022 is non-est. Thus, the contention of the appellant that the communication dated 01.06.2020 treating the notice u/s 148 of the Act dated 20.04.2021 as notice u/s 148A(b) of the Act and fresh notice u/s 148 of the Act dated 31.07.2022 is without jurisdiction is devoid of any merits."

Aggrieved by the order, the assessee preferred an appeal before the Tribunal.

4. Before us, ld. Counsel Mr. D. Anand, Advocate argued that the case was reopened by issue of a notice u/s 148 of the Act dated 20.04.2021 and the assessment was completed vide order u/s 143(3) r.w.s. 147 of the Act dated 31.03.2022 wherein certain disallowances were made and the appellant filed an appeal before the CIT(A) against the said order. The Ld. counsel has further stated that pursuant to the order of the Hon'ble Supreme Court in the case of *Union of India v. Ashish Agarwal [2022] 138 taxmann.com 64 (SC).* though an assessment order was already passed and no proceedings as such were pending before the AO and the AO erroneously and without any jurisdiction issued a communication treating the notice u/s 148 of the Act dated 20.04.2021 as notice u/s 148A(b) of the Act and fresh notice u/s 148 of the Act dated 31.07.2022 was issued. The Ld. counsel has

further stated that it is well settled that once an assessment order is already passed and the assessment proceedings are concluded, there is no provision in the Act for the AO to withdraw/cancel the assessment order and assume jurisdiction to redo the assessment once again. The Ld. counsel has placed reliance on the decision of the Hon'ble High Court of Delhi in the case of *Anindita Sengupta v. ACIT [2024] 161 taxmann.com 39 (Delhi),* wherein it was held that "the Ashish Agarwal judgment neither spoke of completed assessments nor did it embody any direction that could be legitimately or justifiably construed as mandating completed assessments being reopened". The Ld. counsel has also placed reliance on a similar judgment of the Hon'ble High Court of Allahabad in the case of *Arvind Kumar Shivhare Vs Union of India [2024] taxmann.com 769 (Allahabad).*

5. On the other hand, Ld. DR, Ms. Anitha, Addl.CIT on the legal issue has read out para 7.2.4 of the CIT(A) order and prayed for confirming the orders of the lower authorities.

6. We heard the rival contentions and perused the material available on record and case laws cited. The legal issue before us is that: “Whether assessment under section 147 was already concluded,

reassessment proceedings initiated by issuance of notice under section 148A(b) in consequence to decision of Supreme Court in Union of India v. Ashish Agarwal [2022] 138 taxmann.com 64/286 Taxman 183/444 ITR 1 could be justified"?

7. For the adjudication of the legal issue, we have to see the legal pronouncements of the Hon'ble High Courts. On a similar issue, the Hon'ble Delhi High Court in the cases of Anindita Sengupta v. Asstt. CIT [2024] 161 taxmann.com 39/467 ITR 624 (Delhi), Akshita Jindal v. ITO [2024] 162 taxmann.com 313 (Delhi), Satish Chand Jain v. Asstt. CIT [2024] 166 taxmann.com 447/301 Taxman 27 (Delhi) and Jaswant Singh Juneja v. Income-tax Officer [2024] 166 taxmann.com 661 (Delhi)/[2024] 301 Taxman 371 (Delhi) has quashed the subsequent reopening u/s 148A(b) of the Act basis Union of India v. Ashish Agarwal [2022] 138 taxmann.com 64/286 Taxman 183/444 ITR 1 (SC).

8. The Hon'ble Delhi High Court in the case of Anindita Sengupta v. Asstt. CIT [2024] 161 taxmann.com 39/467 ITR 624 (Delhi) has held as under:

> *2. The respondents appear to have proceeded along the aforenoted lines on a perceived understanding of the decision rendered by the Supreme Court in Union of India v. Ashish Agarwal [2022] 138 taxmann.com 64/286 Taxman 183/444 ITR 1 (SC) and its purport being the recommencement of all proceedings for*

reassessment which stood initiated in terms of notices issued under Section 148 of the Act post 01 April 2021 and the judgement mandating them to rewind pending proceedings to the stage of Section 148A(b). Section 148A of the Act which came to be placed in the enactment by virtue of Finance Act, 2021 places the Assessing Officer under an obligation to invite objections in terms of which the assessee may explain why reassessment is not liable to be initiated or would otherwise be unsustainable in law. Ashish Agarwal held that all reassessment notices issued after 01 April 2021 would be treated as notices referable to clause (b) of Section 148A of the Act and the procedure prescribed therein being followed thereafter. The respondents thus read Ashish Agarwal as mandating the aforesaid procedure being liable to be followed irrespective of the stage of the reassessment proceedings and thus extending even to situations where final orders may have come to be passed on culmination of reassessment.

3. According to the petitioner, the judgment in Ashish Agarwal only sought to cure the procedural defects which beset notices issued after 01 April 2021 and where the Department proceeded on the assumption that it would be the unamended reassessment provisions which would apply. The writ petitioner would contend that in order to save those flawed reassessment actions, the Supreme Court only mandated the procedure contemplated under Section 148A of the Act being followed and the existing notices thus being viewed as referable to Section 148A(b). The petitioner argues that the directions in Ashish Agarwal were merely intended to validate such notices. It is contended that the aforesaid decision cannot possibly be read or construed as warranting the reopening of reassessment proceedings which had attained finality even though the same may have been commenced on the basis of notices issued post 01 April 2021.

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9. The notice dated 30 May 2022 purporting to be under Section 148A(b) proceeds on the premise that the judgment of the Supreme Court in Ashish Agarwal requires all notices issued under Section 148 of the Act between the period commencing from 01 April 2021 and ending on 30 June 2021 to be treated as SCN's referable to Section 148A(b) of the Act. The respondents further assert that the judgment in Ashish Agarwal would apply to all cases where notices may have been issued during the period noticed above irrespective of whether the assessee had assailed such notices or not. Significantly, the impugned notice under Section 148A(b) of the Act neither alludes to nor takes into consideration the final order that had come to be passed upon culmination of the

reassessment proceedings in the case of the writ petitioner. Aggrieved by the initiation of that action, the petitioner filed detailed objections. Those objections, however, came to be rejected in terms of an order dated 19 July 2022. The aforesaid order was followed by the issuance of a formal notice under Section 148 and which is dated 20 July 2022. It is the aforesaid action which is assailed in the present writ petition.

10. Appearing in support of the petition, Mr. Vohra, learned senior counsel submitted that the respondents have committed a manifest illegality in proceeding on the assumption that the judgment in Ashish Agarwal requires them to reverse the clock and commence proceedings afresh from the stage of Section 148A(b) of the Act in all cases including those where final orders pursuant to reassessment may have been passed. According to Mr. Vohra, the said assumption is based on a wholly erroneous understanding of Ashish Agarwal. Learned senior counsel contended that the ultimate directions which were framed by the Supreme Court in Ashish Agarwal were intended to only save those proceedings which though commenced post 01 April 2021 had proceeded as per the unamended provisions of the Act and which led to those notices being quashed and set aside by various High Courts. According to Mr. Vohra, as would be manifest from a reading of the decision in Ashish Agarwal, the Supreme Court while taking note of the challenge which stood raised to such notices before different High Courts, had essentially framed remedial measures in order to strike a balance between the right of the Revenue to undertake a reassessment and those of the assessees on the other. Those directions, according to Mr. Vohra, were predicated on the Supreme Court seeking to obviate the specter of being deluged with more than 9000 appeals that would have come to be instituted before it assailing judgments and orders rendered by various High Courts. It was in order to avoid the aforesaid that the Supreme Court invoked its plenary powers conferred by Article 142 of the Constitution and framed directions for the Section 148 notices issued between the period 01 April 2021 to 30 June 2021 being treated as notices referable to Section 148A(b) of the Act and consequential proceedings being taken in accordance with the amended statutory scheme.

11. According to Mr. Vohra, it would be wholly incorrect to read those directions as warranting a reopening of concluded cases. An interpretation of the direction of the Supreme Court as suggested by the respondent, according to learned senior counsel, would also not sustain bearing in mind the scope of the Article 142 power as conferred upon the Supreme Court. Learned senior counsel drew our attention to the recent decision rendered by a Constitution

Bench in High Court Bar Association, v. State of U.P [2024] 160 taxmann.com 32 /[2024 SCC OnLine SC 207], and where the extent and scope of the Article 142 power was explained in the following terms: -

> *"23. The directions issued in Asian Resurfacing1 are obviously issued in the exercise of jurisdiction of this Court under Article 142 of the Constitution, which confers jurisdiction on this Court to pass such a decree or make such order necessary for doing complete justice in any case or matter pending before it. In Asian Resurfacing1, the first issue was, whether an order framing of charge in a case under the PC Act was in the nature of an interlocutory order. The second question was of the scope of powers of the High Court to stay proceedings of the trial under the PC Act while entertaining a challenge to an order of framing charge. The question regarding the duration of the interim orders passed by the High Courts in various other proceedings did not specifically arise for consideration in the case of Asian Resurfacing. The provisions of Article 142 of the Constitution of India are meant to further the cause of justice and to secure complete justice. The directions in the exercise of power under Article 142 cannot be issued to defeat justice. The jurisdiction under Article 142 cannot be invoked to pass blanket orders setting at naught a very large number of interim orders lawfully passed by all the High Courts, and that too, without hearing the contesting parties. The jurisdiction under Article 142 can be invoked only to deal with extraordinary situations for doing complete justice between the parties before the Court.*
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> *24. While dealing with the scope of power under Article 142, a Constitution Bench of this Court in the case of Prem Chand Garg v. The Excise Commissioner, U.P., in paragraphs 12 and 13 held thus:*
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> > *"12. Basing himself on this decision, the Solicitor-General argues that the power conferred on this Court under Article 142(1) is comparable to the privileges claimed by the members of the State Legislatures under the latter part of Article 194(3), and so, there can be no question of striking down an order passed by this Court under Article 142(1) on the ground that it is inconsistent with Article 32. It would be noticed that this argument proceeds on the basis that the order for security infringes the fundamental right guaranteed by Article 32 and it suggests that under Article 142(1) this Court has*

jurisdiction to pass such an order. In our opinion, the argument thus presented is misconceived. In this connection, it is necessary to appreciate the actual decision in the case of Sharma [(1959) 1 SCR 806 at 859860] and its effect. The actual decision was that the rights claimable under the latter part of Article 194(3) were not subject to Article 19(1)(a), because the said rights had been expressly provided for by a constitutional provision viz. Article 194(3), and it would be impossible to hold that one part of the Constitution is inconsistent with another part. The position would, however, be entirely different if the State Legislature was to pass a law in regard to the privileges of its members. Such a law would obviously have to be consistent with Article 19(1)(a). If any of the provisions of such a law were to contravene any of the fundamental rights guaranteed by Part III, they would be struck down as being unconstitutional. Similarly, there can be no doubt that if in respect of petitions under Article 32 a law is made by Parliament as contemplated by Article 145(1), and such a law, in substance, corresponds to the provisions of Order 25 Rule 1 or Order 41 Rule 10, it would be struck down on the ground that it purports to restrict the fundamental right guaranteed by Article 32. The position of an order made either under the rules framed by this Court or under the jurisdiction of this Court under Article 142(1) can be no different. If this aspect of the matter is borne in mind, there would be no difficulty in rejecting the Solicitor General's argument based on Article 142(1). The powers of this Court are no doubt very wide and they are intended to be and will always be exercised in the interest of justice. But that is not to say that an order can be made by this Court which is inconsistent with the fundamental rights guaranteed by Part III of the Constitution. An order which this Court can make in order to do complete justice between the parties, must not only be consistent with the fundamental rights guaranteed by the Constitution, but it cannot even be inconsistent with the substantive provisions of the relevant statutory laws. Therefore, we do not think it would be possible to hold that Article 142(1) confers upon this Court powers which can contravene the provisions of Article 32.

13. In this connection, it may be pertinent to point out that the wide powers which are given to this Court for doing complete justice between the parties, can be used by this Court, for instance, in adding parties to the proceedings pending before it, or in admitting additional evidence, or in remanding the case, or in allowing a new point to be taken for the first time. It is plain that in exercising these and similar other powers, this Court would not be bound by the relevant provisions of procedure if it is satisfied that a departure from the said procedure is necessary to do complete justice between the parties."

(Emphasis added)

25. Another Constitution Bench in the case of Supreme Court Bar Association v. Union of India, in paragraphs 47 and 48, held thus:

"47. The plenary powers of this Court under Article 142 of the Constitution are inherent in the Court and are complementary to those powers which are specifically conferred on the Court by various statutes though are not limited by those statutes. These powers also exist independent of the statutes with a view to do complete justice between the parties. These powers are of very wide amplitude and are in the nature of supplementary powers. This power exists as a separate and independent basis of jurisdiction apart from the statutes. It stands upon the foundation and the basis for its exercise may be put on a different and perhaps even wider footing, to prevent injustice in the process of litigation and to do complete justice between the parties. This plenary jurisdiction is, thus, the residual source of power which this Court may draw upon as necessary whenever it is just and equitable to do so and in particular to ensure the observance of the due process of law, to do complete justice between the parties, while administering justice according to law. There is no doubt that it is an indispensable adjunct to all other powers and is free from the restraint of jurisdiction and operates as a valuable weapon in the hands of the Court to prevent "clogging or obstruction of the stream of justice". It, however, needs to be remembered that the powers conferred on the Court by Article 142 being curative in nature cannot

be construed as powers which authorise the Court to ignore the substantive rights of a litigant while dealing with a cause pending before it. This power cannot be used to "supplant" substantive law applicable to the case or cause under consideration of the Court. Article 142, even with the width of its amplitude, cannot be used to build a new edifice where none existed earlier, by ignoring express statutory provisions dealing with a subject and thereby to achieve something indirectly which cannot be achieved directly. Punishing a contemner advocate, while dealing with a contempt of court case by suspending his licence to practice, a power otherwise statutorily available only to the Bar Council of India, on the ground that the contemner is also an advocate, is, therefore, not permissible in exercise of the jurisdiction under Article 142. The construction of Article 142 must be functionally informed by the salutary purposes of the article, viz., to do complete justice between the parties. It cannot be otherwise. As already noticed in a case of contempt of court, the contemner and the court cannot be said to be litigating parties.

48. The Supreme Court in exercise of its jurisdiction under Article 142 has the power to make such order as is necessary for doing complete justice "between the parties in any cause or matter pending before it". The very nature of the power must lead the Court to set limits for itself within which to exercise those powers and ordinarily it cannot disregard a statutory provision governing a subject, except perhaps to balance the equities between the conflicting claims of the litigating parties by "ironing out the creases" in a cause or matter before it. Indeed this Court is not a court of restricted jurisdiction of only dispute-settling. It is well recognised and established that this Court has always been a law-maker and its role travels beyond merely dispute-settling. It is a "problem-solver in the nebulous areas" (see K. Veeraswami v. Union of India [(1991) 3 SCC 655 : 1991 SCC (Cri) 734] but the substantive statutory provisions dealing with the subject-matter of a given case cannot be altogether ignored by this Court, while making an order under Article 142. Indeed, these constitutional powers cannot, in any way, be

controlled by any statutory provisions but at the same time these powers are not meant to be exercised when their exercise may come directly in conflict with what has been expressly provided for in a statute dealing expressly with the subject."

(Emphasis added)

26. It is very difficult to exhaustively lay down the parameters for the exercise of powers under Article 142 of the Constitution of India due to the very nature of such powers. However, a few important parameters which are relevant to the issues involved in the reference are as follows:—

(i) The jurisdiction can be exercised to do complete justice between the parties before the Court. It cannot be exercised to nullify the benefits derived by a large number of litigants based on judicial orders validly passed in their favour who are not parties to the proceedings before this Court;

(ii) Article 142 does not empower this Court to ignore the substantive rights of the litigants; and

(iii) While exercising the jurisdiction under Article 142 of the Constitution of India, this Court can always issue procedural directions to the Courts for streamlining procedural aspects and ironing out the creases in the procedural laws to ensure expeditious and timely disposal of cases. This is because, while exercising the jurisdiction under Article 142, this Court may not be bound by procedural requirements of law. However, while doing so, this Court cannot affect the substantive rights of those litigants who are not parties to the case before it. The right to be heard before an adverse order is passed is not a matter of procedure but a substantive right.

(iv) The power of this Court under Article 142 cannot be exercised to defeat the principles of natural justice, which are an integral part of our jurisprudence."

12. Mr. Vohra submitted that the Constitution Bench had categorically found that the Article 142 jurisdiction cannot possibly be countenanced as envisaging blanket orders being passed and which may result in innumerable interim orders lawfully passed by High Courts coming to be annulled by one

slight of the pen. The Constitution Bench further took into consideration the deleterious impact of such an order when made without hearing parties who would be affected. Mr. Vohra sought to draw sustenance from the observations rendered by the Constitution Bench in High Court Bar Association where it was held that the powers conferred by Article 142 being curative cannot be exercised in ignorance of the substantive rights of litigants.

13. Our attention was also invited to the observations of the Constitution Bench when it observed that the jurisdiction under Article 142 is primarily intended to be invoked and exercised to do necessary and complete justice between the parties to a cause and in respect of a matter pending before the Supreme Court. It was pointed out that the petitioner here had neither questioned the invocation of Section 148 of the Act nor had she at any point of time joined the challenge which was laid in respect of notices issued between 01 April 2021 and 30 June 2021 before various High Courts including a batch of writ petitions which were entertained by this Court. Mr. Vohra pointed out that the petitioner had not joined the challenge which came to be laid before this Court in the matter of Mon Mohan Kohli v. CIT [2021] 133 taxmann.com 166/[2022] 441 ITR 207/[2021 SCC ONLine Del 5250] and which came to be finally allowed on 15 December 2021. It was in the aforesaid backdrop that learned senior counsel contended that since the petitioner was not a party to those proceedings, the respondents had clearly erred in seeking to apply the judgment in Ashish Agarwal and reopen a concluded assessment. It was the submission of Mr. Vohra that once the reassessment proceedings culminated in the passing of a final assessment order on 28 March 2022, the respondents were rendered functus officio and could not have possibly reinvented the wheel and commenced proceedings afresh by issuance of fresh notices under Section 148A(b) of the Act.

14. Appearing for the respondents, Mr. Bhattacharya submitted that it has been the consistent understanding of the respondents that the judgment in Ashish Agarwal mandated them to reopen all cases in which notices may have been issued during the period 01 April 2021 to 30 June 2021. According to Mr. Bhattacharya, the judgment of the Supreme Court would apply to all cases irrespective of whether the assessee had chosen to assail a Section 148 notice or not. Learned counsel contended that notwithstanding the initial reassessment proceedings having come to an end on 28 March 2022, the judgment of the Supreme Court in Ashish Agarwal,

though rendered on 04 May 2022, would clearly apply and the initiation of reassessment cannot be faulted. It is the aforenoted rival submissions which fall for our consideration.

15. We at the outset note that the fact that the reassessment proceedings initiated pursuant to the notice dated 31 March 2021 (stated to have been issued on 01 April 2021) had attained a closure consequent to a final order of assessment being drawn on 28 March 2022 is not disputed before us. The fact that this order came to be rendered undisputedly prior to the decision in Ashish Agarwal being pronounced also cannot possibly be questioned. The principal question which therefore arises is whether Ashish Agarwal is liable to be viewed as commanding the respondents to reopen even concluded proceedings. The aforesaid question would arise in the context of those cases where although notices may have been issued between 01 April 2021 to 30 June 2021, reassessment proceedings may themselves have come to an end with final orders being framed. Undoubtedly, in the facts of the present case, a final order of assessment came to be passed prior to judgment being rendered by the Constitution Bench in Ashish Agarwal. We are thus called upon to answer whether the judgment in Ashish Agarwal mandated or even envisaged the reopening of this particular class of cases.

16. It becomes pertinent to note that the family of provisions dealing with reassessment underwent significant statutory amendments consequent to the promulgation of Finance Act, 2021. The provisions so recast saw the introduction and placement of Section 148A in the statute book and which for the first time placed an express provision providing an opportunity to the assessee to question the initiation of reassessment and assumption of jurisdiction. Section 148A of the Act made provisions for such an opportunity being availed of by an assessee by virtue of clause (b) thereof. In terms of Section 148A(d), the AO was placed under a statutory obligation to decide whether circumstances warranted assessment being undertaken in terms of Section 148 after taking into consideration the material available on the record as well as the objections or replies that may have been tendered by an assessee. The objections of the assessee referable to clause (b) of Section 148A, enabled it to commend for the consideration of the AO that the information viewed as being suggestive of income having escaped assessment would not sustain the invocation of Section 148 of the Act.

17. It appears from a reading of the judgment in Ashish Agarwal that despite the substituted Sections 147 to 151 having been brought into force with effect from 01 April 2021, the respondents had issued as many as 90,000 reassessment notices under the unamended set of provisions. The aforesaid action was based upon the explanations contained in the notifications dated 31 March 2021 and 27 April 2021. It was these reassessment notices which came to be assailed before various High Courts. The High Courts in unison held that the reassessment notices issued under the unamended Sections 148 to 151 would not sustain once the substituted provisions had come to be placed in the statute by virtue of Finance Act, 2021. On the basis of the aforesaid, the respective High Courts proceeded to set aside those reassessment notices. While the High Court of Allahabad quashed the reassessment notices, our Court in its judgment rendered in Mon Mohan Kohli, while quashing the individual reassessment had pertinently observed that notwithstanding the challenge to the reassessment notices having been accepted, the same would not detract from the right of the respondents to draw proceedings afresh, if so permissible in law.

18. It was the impasse so created with innumerable reassessment actions coming to be annulled that compelled the Supreme Court to intervene and invoke its powers flowing from Article 142 of the Constitution. In the Ashish Agarwal batch, the Supreme Court while dealing with the aforesaid question firstly took note of the practice adopted by the respondents in terms of the procedure judicially crafted in GKN Driveshafts (India) Ltd. v. ITO [2002] 125 Taxman 963/[2003] 259 ITR 19/1 SCC 72] . It is pertinent to note that it was by virtue of GKN Driveshafts that for the first time a pre-commencement opportunity of hearing avenue came to be created by way of a judicial declaration. Sections 147 to 151, as ultimately introduced in terms of Finance Act 2021, sought to confer a statutory basis and framework for the procedure formulated in GKN Driveshafts and laid in place salutary safeguards with respect to the rights of an assessee. This is evident from the following observations as rendered by the Supreme Court in Ashish Agarwal: -

19. However, by way of Section 148-A, the procedure has now been streamlined and simplified. It provides that before issuing any notice under Section 148, the assessing officer shall:

> *(i) conduct any enquiry, if required, with the approval of specified authority, with respect to the information which*

suggests that the income chargeable to tax has escaped assessment;

(ii) provide an opportunity of being heard to the assessee, with the prior approval of specified authority;

(iii) consider the reply of the assessee furnished, if any, in response to the show-cause notice referred to in clause (b); and

(iv) decide, on the basis of material available on record including reply of the assessee, as to whether or not it is a fit case to issue a notice under Section 148 of the IT Act; and

(v) the AO is required to pass a specific order within the time stipulated.

20. Therefore, all safeguards are provided before notice under Section 148 of the IT Act is issued. At every stage, the prior approval of the specified authority is required, even for conducting the enquiry as per Section 148-A(a). Only in a case where, the assessing officer is of the opinion that before any notice is issued under Section 148-A(b) and an opportunity is to be given to the assessee, there is a requirement of conducting any enquiry, the assessing officer may do so and conduct any enquiry. Thus if the assessing officer is of the opinion that any enquiry is required, the assessing officer can do so, however, with the prior approval of the specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment.

21. Substituted Section 149 is the provision governing the timelimit for issuance of notice under Section 148 of the IT Act. The substituted Section 149 of the IT Act has reduced the permissible time-limit for issuance of such a notice to three years and only in exceptional cases ten years. It also provides further additional safeguards which were absent under the earlier regime pre-Finance Act, 2021.

19. The Supreme Court, however, also took note of the unprecedented and anomalous situation which had come to prevail by virtue of the diverse judgments rendered by different High Courts. While dealing with this aspect, it observed: -

"22. Thus, the new provisions substituted by the Finance Act, 2021 being remedial and benevolent in nature and substituted

with a specific aim and object to protect the rights and interest of the assessee as well as and the same being in public interest, the respective High Courts have rightly held that the benefit of new provisions shall be made available even in respect of the proceedings relating to past assessment years, provided Section 148 notice has been issued on or after 1-4-2021. We are in complete agreement with the view taken by the various High Courts in holding so.

23. However, at the same time, the judgments of the several High Courts would result in no reassessment proceedings at all, even if the same are permissible under the Finance Act, 2021 and as per substituted Sections 147 to 151 of the IT Act. The Revenue cannot be made remediless and the object and purpose of reassessment proceedings cannot be frustrated. It is true that due to a bona fide mistake and in view of subsequent extension of time vide various notifications, the Revenue issued the impugned notices under Section 148 after the amendment was enforced w.e.f. 1-4-2021, under the unamended Section 148. In our view the same ought not to have been issued under the unamended Act and ought to have been issued under the substituted provisions of Sections 147 to 151 of the IT Act as per the Finance Act, 2021.

24. There appears to be genuine non-application of the amendments as the officers of the Revenue may have been under a bona fide belief that the amendments may not yet have been enforced. Therefore, we are of the opinion that some leeway must be shown in that regard which the High Courts could have done so. Therefore, instead of quashing and setting aside the reassessment notices issued under the unamended provision of the IT Act, the High Courts ought to have passed an order construing the notices issued under the unamended Act/unamended provision of the IT Act as those deemed to have been issued under Section 148-A of the IT Act as per the new provision Section 148-A and the Revenue ought to have been permitted to proceed further with the reassessment proceedings as per the substituted provisions of Sections 147 to 151 of the IT Act as per the Finance Act, 2021, subject to compliance of all the procedural requirements and the defences, which may be available to the assessee under the substituted provisions of Sections 147 to 151 of the IT Act and which may be available under the Finance Act, 2021 and in law.

25. Therefore, we propose to modify the judgments and orders passed by the respective High Courts as under:

> *25.1. The respective impugned Section 148 notices issued to the respective assessees shall be deemed to have been issued under Section 148-A of the IT Act as*

substituted by the Finance Act, 2021 and treated to be show-cause notices in terms of Section 148-A(b). The respective assessing officers shall within thirty days from today provide to the assessees the information and material relied upon by the Revenue so that the assessees can reply to the notices within two weeks thereafter.

25.2. The requirement of conducting any enquiry with the prior approval of the specified authority under Section 148-A(a) be dispensed with as a one-time measure vis-a-vis those notices which have been issued under Section 148 of the unamended Act from 1-4-2021 till date, including those which have been quashed by the High Courts.

25.3. The assessing officers shall thereafter pass an order in terms of Section 148-A(d) after following the due procedure as required under Section 148-A(b) in respect of each of the assessees concerned.

25.4. All the defences which may be available to the assessee under Section 149 and/or which may be available under the Finance Act, 2021 and in law and whatever rights are available to the Assessing Officer under the Finance Act, 2021 are kept open and/or shall continue to be available.

25.5. The present order shall substitute/modify respective judgments and orders passed by the respective High Courts quashing the similar notices issued under unamended Section 148 of the IT Act irrespective of whether they have been assailed before this Court or not."

20. The suggestions so mooted ultimately appear to have found acceptance across the board as would be evident from the following: -

"26. There is a broad consensus on the aforesaid aspects amongst the learned ASG appearing on behalf of the Revenue and the learned Senior Advocates/learned counsel appearing on behalf of the respective assessees. We are also of the opinion that if the aforesaid order is passed, it will strike a balance between the rights of the Revenue as well as the respective assessees as because of a bona fide belief of the officers of the Revenue in issuing approximately 90,000 such notices, the Revenue may not suffer as ultimately it is the public exchequer which would suffer.

27. Therefore, we have proposed to pass the present order with a view to avoiding filing of further appeals before this Court and burden this Court with

approximately 9000 appeals against the similar judgments and orders passed by the various High Courts, the particulars of some of which are referred to hereinabove. We have also proposed to pass the aforesaid order in exercise of our powers under Article 142 of the Constitution of India by holding that the present order shall govern, not only the impugned judgments and orders passed by the High Court of Judicature at Allahabad, but shall also be made applicable in respect of the similar judgments and orders passed by various High Courts across the country and therefore the present order shall be applicable to PAN INDIA."

21. It was in the aforesaid backdrop that the Supreme Court proceeded to frame the following operative directions: -

"28. In view of the above and for the reasons stated above, the present appeals are allowed in part. The impugned common judgments and orders [Ashok Kumar Agarwal v. Union of India, 2021 SCC OnLine All 799] passed by the High Court of Judicature at Allahabad in WT No. 524 of 2021 and other allied tax appeals/petitions, is/are hereby modified and substituted as under:

28.1. The impugned Section 148 notices issued to the respective assessees which were issued under unamended Section 148 of the IT Act, which were the subject-matter of writ petitions before the various respective High Courts shall be deemed to have been issued under Section 148-A of the IT Act as substituted by the Finance Act, 2021 and construed or treated to be show-cause notices in terms of Section 148-A(b). The assessing officer shall, within thirty days from today provide to the respective assessees information and material relied upon by the Revenue, so that the assessees can reply to the show-cause notices within two weeks thereafter.

28.2. The requirement of conducting any enquiry, if required, with the prior approval of specified authority under Section 148-A(a) is hereby dispensed with as a one-time measure vis-a-vis those notices which have been issued under Section 148 of the unamended Act from 1-4-2021 till date, including those which have been quashed by the High Courts.

28.3. Even otherwise as observed hereinabove holding any enquiry with the prior approval of specified authority is not mandatory but it is for the assessing officers concerned to hold any enquiry, if required.

28.4. The assessing officers shall thereafter pass orders in terms of Section 148-A(d) in respect of each of the assessees concerned; Thereafter after following the procedure as required under Section 148-A may issue notice under Section 148 (as substituted).

28.5. All defences which may be available to the assessees including those available under Section 149 of the IT Act and all rights and contentions which may be available to the assessees concerned and Revenue under the Finance Act, 2021 and in law shall continue to be available.

29. The present order shall be applicable PAN INDIA and all judgments and orders passed by the different High Courts on the issue and under which similar notices which were issued after 14-2021 issued under Section 148 of the Act are set aside and shall be governed by the present order and shall stand modified to the aforesaid extent. The present order is passed in exercise of powers under Article 142 of the Constitution of India so as to avoid any further appeals by the Revenue on the very issue by challenging similar judgments and orders, with a view not to burden this Court with approximately 9000 appeals. We also observe that the present order shall also govern the pending writ petitions, pending before various the High Courts in which similar notices under Section 148 of the Act issued after 1-4-2021 are under challenge."

22. As is manifest from a reading of the aforesaid passages forming part of the decision in Ashish Agarwal, the Supreme Court was essentially concerned with the imperatives of striking a just balance between the right of the respondents to undertake and conclude a reassessment that may have been initiated while at the same time according due protection to the interest of the assessees. The Supreme Court held that although the High Courts were correct in taking the view that after the amendments in the Act, coming to be enforced with effect from 01 April 2021, notices could have been issued only in terms of the substituted provisions, the Department appeared to have proceeded under the mistaken yet bona fide belief that those amendments were yet to be enforced. It was in the aforesaid background that it found that the ends of justice would warrant the notices issued with reference to the erstwhile provisions being saved and being read as referable to Section 148A(b). It was to subserve the aforesaid primary objective that Ashish Agarwal proceeded to hold that the impugned Section 148 notices would be deemed to have been issued under section

148A and treated to be show cause notices referable to clause (b) thereof.

23. As we read the penultimate directions which came to be framed, the procedure laid out in Ashish Agarwal clearly stood confined to matters where although notices may have been issued, proceedings were yet to have attained finality. This clearly flows from the impugned notices being ordained to be treated as show cause notices under Section 148A(b) and the concomitant liberty being accorded to AOs' to proceed further in accordance with Section 148A(d). As we read that decision, we find ourselves unable to construe those directions as either warranting or mandating a reopening of proceedings which had come to be rendered a quietus in the meanwhile. The judgment was primarily concerned with the validity of various notices which had been promulgated and proceedings drawn in accordance with the statutory procedure which stood in place prior to 01 April 2021. It also becomes pertinent to note that the decision rendered by our Court in Mon Mohan Kohli perhaps constituted the solitary exception in the sense of having left a window open to the respondents to draw proceedings afresh. A majority of the High Courts', however, do not appear to have made such a provision or provide the Revenue with a right of recourse. The Supreme Court was thus faced with a peculiar and an unprecedented situation where the Revenue was rendered remediless to assess escaped income even though material may have merited such an action being pursued solely on account of a misinterpretation of the correct legal position. It was these factors which clearly appear to have weighed upon the Supreme Court to mould and sculpt a procedure which would strike a just balance between competing interests.

24. In order to carve out an equitable solution which would redress the deadlock, the Supreme Court invoked its powers conferred by Article 142 of the Constitution and ordained that all such notices would be treated as being under Section 148A(b) and for proceedings to be taken forward in accordance with law thereafter. The direction so framed thus enabled the assessee to question the assumption of jurisdiction under Section 148 and take advantage of the beneficial measures embodied in Section 148 A. The assessee thus derived a right to assail the initiation of reassessment proceedings on jurisdictional grounds by preferring objections which the AO was statutorily obliged to take into consideration before issuing notices under Section 148 of the Act. The Revenue on the other hand, and notwithstanding its folly of having erroneously proceeded under the erstwhile regime, was enabled to continue proceedings in accordance with the amended procedure as introduced by virtue of Finance Act, 2021 and thus

avoid the specter of a fait accompli which it faced on account of some of the High Court decisions. This is apparent from the Supreme Court observing that the judgments rendered by some of the High Courts' had left the Revenue remediless and resulting in "no reassessment proceedings at all, even if the same are permissible under the Finance Act, 2021 and as per substituted sections 147."

25. However, we are of the firm opinion that Ashish Agarwal neither intended nor mandated concluded assessments being reopened. The respondent clearly appears to have erred in proceedings along lines contrary to the above as would be evident from the reasons which follow. Firstly, Ashish Agarwal was principally concerned with judgments rendered by various High Courts' striking down Section 148 notices holding that the respondents had erred in proceeding on the basis of the unamended family of provisions relating to reassessment. They had essentially held that it was the procedure constructed in terms of the amendments introduced by Finance Act, 2021 which would apply. None of those judgements were primarily concerned with concluded assessments. It is this indubitable position which constrained the Supreme Court to frame directions requiring those notices to be treated as being under Section 148A(b) and for the AO proceeding thereafter to frame an order as contemplated by Section 148A(d) of the Act. The Supreme Court significantly observed that the High Courts' instead of quashing the impugned notices should have framed directions for those notices being construed and deemed to have been issued under Section 148A. Ashish Agarwal proceeded further to observe that the Revenue should have been "permitted to proceed further with the reassessment proceedings as per the substituted provisions. . . . . ". Our view of the judgement being confined to proceedings at the stage of notice is further fortified from the Supreme Court providing in para 8 of the report that "The respective impugned Section 148 notices issued to the respective assessees shall be deemed to have been issued under section 148A of the Income Tax Act as substituted by Finance Act, 2021 and treated to be show cause notices in terms of Section 148A(b)." As would be manifest from the aforesaid extract, the emphasis clearly was on the notices which formed the subject matter of challenge before various High Courts' and the aim of the Supreme Court being to salvage the process of reassessment. This is further evident from the Supreme Court observing that the AO would thereafter proceed to pass orders referable to Section 148A(d). We consequently find ourselves unable to construe Ashish Agarwal as an edict which required completed assessments to be invalidated and reopened. Ashish Agarwal cannot possibly be read as mandating the hands of the

clock being rewound and reversing final decisions which may have come to be rendered in the interregnum.

26. Regard must also be had to the undisputed fact that the petitioner never questioned the validity of the original notices on grounds which were urged before the various High Courts and where assessees had questioned the invocation of the unamended provisions. The petitioner chose to contest the reassessment proceedings on merits. It is also admitted before us that the petitioner was also not a party to the Mon Mohan Kohli batch of matters. There was therefore no justification for the respondent to have issued notices afresh seeking to reopen proceedings which had been rendered a closure prior to the judgment rendered in Ashish Agarwal. At the cost of being repetitive we deem it appropriate to observe that the Ashish Agarwal judgment neither spoke of completed assessments nor did it embody any direction that could be legitimately or justifiably construed as mandating completed assessments being reopened and moreso where the assessee had raised no objection to the initiation of proceedings.

27. We are also of the firm opinion that even para 25.5 of Ashish Agarwal would not sustain the stand taken by the respondent since the same clearly confines itself to decisions or judgments rendered by a High Court invalidating a notice under Section 148 and the manifest intent of the Supreme Court being that its judgment would apply and govern irrespective of whether an appeal had been laid before it.

28. It is in the aforesaid context that we also bear in mind the pertinent observations rendered by the Constitution Bench in High Court Bar Association when it held that a direction under Article 142 of the Constitution should not impact the substantive rights of those litigants who are not even parties to the lis. The Constitution Bench while acknowledging the amplitude of the Article 142 power placed a significant caveat when it observed that benefits derived by a litigant based on a judicial order validly passed cannot be annulled especially when they may not even have been parties to the cause. This too convinces us to hold in favour of the petitioner and come to the inevitable conclusion that the writ petition must succeed.

29. Accordingly, and for all the aforesaid reasons, we allow the present writ petition and quash the impugned SCN dated 30 May 2022 issued under Section 148A(b), the order dated 19 July 2022 issued under Section 148A(d) as well as the notice referable to Section 148 of the Act dated 20 July 2022."

9. The Jurisdictional High Court in the case of *Merton v. Deputy Commissioner of Income-tax [2025] 171 taxmann.com 544 (Madras)/[2025] 475 ITR 734 (Madras)* held as under:

> *7. Learned counsel for the petitioner has also drawn attention to few other decisions of the Division Bench of the Delhi High Court as detailed below:-*
>
> *i. Akshita Jindal v. Income-tax Officer [2024] 162 taxmann.com 313 (Delhi).*
>
> *ii. Satish Chand Jain v. Assistant Commissioner of Income-tax [2024] 166 taxmann.com 447/301 Taxman 27 (Delhi).*
>
> *8. Learned Senior Standing Counsel for the respondents on the other hand would submit that the interpretation placed by the Division Bench of the Delhi High Court in the above-mentioned cases are inapplicable to the facts of the case.*
>
> *9. It is submitted that the decision of the Hon'ble Supreme Court in Ashish Agarwal's case (cited supra) has been precluded the Department from issuing fresh notice under the new regime and that the earlier proceedings ought to have been construed as nullity in the light of the decision of the Hon'ble Supreme Court in Ashish Agarwal's case (cited supra).*
>
> *10. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents.*
>
> *11. The reasons for issuance of notice on 28.06.2021 under Section 148 of the Income Tax Act, 1961 as communicated to the petitioner vide notice dated 23.02.2022 issued under Section 143(2) of the Income Tax Act, 1961 and the reasons stated in the notice issued under Section 148A(b) of the Income Tax Act, 1961 on 1.06.2022 read almost identically.*
>
> *12. The issue was examined by the Assessing Officer which has culminated in an Assessment Order dated 30.03.2022. The decision of the Hon'ble Supreme Court in Ashish Agarwal's case (cited supra), has summarized the position as under:-*
>
> > *"28. In view of the above and for the reasons stated above, the present appeals are allowed in part. The impugned common judgments and orders [Ashok Kumar Agarwal v. Union of India, 2021 SCC OnLine All 799] passed by the High*

Court of Judicature at Allahabad in WT No. 524 of 2021 and other allied tax appeals/petitions, is/are hereby modified and substituted as under:

28.1. The impugned Section 148 notices issued to the respective assessees which were issued under unamended Section 148 of the IT Act, which were the subject-matter of writ petitions before the various respective High Courts shall be deemed to have been issued under Section 148-A of the IT Act as substituted by the Finance Act, 2021 and construed or treated to be show-cause notices in terms of Section 148-A(b). The assessing officer shall, within thirty days from today provide to the respective assessees information and material relied upon by the Revenue, so that the assessees can reply to the show-cause notices within two weeks thereafter.

28.2. The requirement of conducting any enquiry, if required, with the prior approval of specified authority under Section 148-A(a) is hereby dispensed with as a one-time measure vis-a-vis those notices which have been issued under Section 148 of the unamended Act from 1-4-2021 till date, including those which have been quashed by the High Courts.

28.3. Even otherwise as observed hereinabove holding any enquiry with the prior approval of specified authority is not mandatory but it is for the assessing officers concerned to hold any enquiry, if required.

28.4. The assessing officers shall thereafter pass orders in terms of Section 148-A(d) in respect of each of the assessees concerned; Thereafter after following the procedure as required under Section 148-A may issue notice under Section 148 (as substituted).

28.5. All defences which may be available to the assessees including those available under Section 149 of the IT Act and all rights and contentions which may be available to the assessees concerned and Revenue under the Finance Act, 2021 and in law shall continue to be available.

29. The present order shall be applicable PAN INDIA and all judgments and orders passed by the different High Courts on the issue and under which similar notices which were issued after 1-4-2021 issued under Section 148 of the Act are set aside and shall be governed by the present order and shall stand modified to the aforesaid extent. The present order is passed in exercise of powers under Article 142 of the Constitution of India so as to avoid any further appeals by the Revenue on the very issue by challenging similar judgments and orders, with a view not to burden this Court with approximately 9000 appeals. We also observe that the present

order shall also govern the pending writ petitions, pending before various the High Courts in which similar notices under Section 148 of the Act issued after 1-42021 are under challenge.

30. The impugned common judgments and orders [Ashok Kumar Agarwal v. Union of India, 2021 SCC OnLine All 799] passed by the High Court of Allahabad and the similar judgments and orders passed by various High Courts, more particularly, the respective judgments and orders passed by the various High Courts particulars of which are mentioned hereinabove, shall stand modified/substituted to the aforesaid extent only.

31. All these appeals are accordingly partly allowed to the aforesaid extent. In the facts of the case, there shall be no order as to costs."

13. In my view, the aforesaid decision of the Hon'ble Supreme Court in Ashish Agarwal's case (cited supra) has been passed under Article 142 of the Constitution of India in view of the peculiar circumstances arising out of the amendment to the Income Tax Act, 1961 vide Finance Act, 2021. In order to put the issue at rest, the Hon'ble Supreme Court had given the above direction.

14. The Hon'ble Supreme Court has not given a direction to the Assessing Officer to reopen the assessment even when the assessment was completed earlier by treating the notice issued under Section 148 of the Income Tax Act, 1961 as the notice issued under Section 148A(b) of the Income Tax Act, 1961 as amended with effect from 01.04.2021.

15. This is also the view of the Division Bench of the Delhi High Court in Paragraphs 22 and 23 in Anindita Sengupta's case (cited supra). Therefore, I am inclined to allow this Writ Petition.

16. Therefore, the impugned order passed by the 1st respondent under Section 148A(d) of the Income Tax Act, 1961 dated 31.07.2022 in DIN & Order No.ITBA/COM/F/17/2022-2023/1044375726(1) and the consequential notice issued under Section 148 of the Income Tax Act, 1961 dated 31.07.2022 for the Assessment Year 2017-2018 are quashed.

17. This Writ Petition thus stands allowed. No costs. Connected Writ Miscellaneous Petitions are closed."

10. Admittedly, in this case, assessment proceedings had already concluded on 31.03.2022 and the reassessment action was reinitiated on the same set of reasons vide Show Cause Notice dated 01.06.2022 under Section 148-A(b) [treated the notice u/s 148 dated 20.04.2021 as deemed u/s 148A(b)], leading to the passing of an order under Section 148-A(d) and issuance of notice under Section 148 of the Act, both dated 31.07.2022.

11. In view of the position of law as enunciated in Anindita Sengupta and Merton v. Deputy Commissioner of Income-tax (supra), we find ourselves unable to sustain the impugned action of reassessment.

12. The appeal is accordingly allowed. The impugned order dated 29.11.2024 and assessment order dated 27.03.2023 under Section 147 as well as consequential notice dated 31.07.2022 under Section 148 of the Act shall stand set aside.

13. Our above order is mutatis mutandis applicable to the ITA No.191/Chny/2025 for AY 2016-17 also. Accordingly, the impugned order dated 29.11.2024 and assessment order dated 28.03.2023

under Section 147 as well as consequential notice dated 31.07.2022 under Section 148 of the Act shall stand set aside.

14. In result, both the appeals of the assessee are allowed.

Order pronounced on 09th day of July, 2025 at Chennai.

Sd/-	**Sd/-**
(अमिताभ शुक्ला)	**(मनु कुमार गिरि)**
(Amitabh Shukla)	**(Manu Kumar Giri)**
लेखा सदस्य /Accountant Member	**न्यायिक सदस्य / Judicial Member**

चेन्नई/Chennai, दिनांक/Dated: *July*, 2025.

EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai /Madurai/Coimbatore/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF