

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ में  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Visakhapatnam Bench**

श्री रवीश सूद, माननीय न्यायिक सदस्य एवं श्री एस. बालकृष्णन, माननीय लेखा सदस्य  
**SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER**  
**AND**  
**SHRI BALAKRISHNAN. S, HON'BLE ACCOUNTANT MEMBER,**

आयकर अपील सं./I.T.A.No.271/Viz/2025  
(निर्धारण वर्ष/ Assessment Year: 2018-19)

Nandigam Veerabrahmam, R/o. Rajahmundry.  PAN: BARPV3593F	Vs.	Income Tax Officer, Ward-2(1), Rajahmundry.
<b>(अपीलार्थी/ Appellant)</b>		<b>(प्रत्यर्थी/ Respondent)</b>

करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Smt. A. Aruna, Advocate.
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Dr. Aparna Villuri, Sr.DR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	28.08.2025
घोषणा की तारीख/ Date of Pronouncement	:	03.09.2025

**ORDER**

**प्रति रवीश सूद, जे.एम./PER RAVISH SOOD, J.M.**

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 18.02.2025, which in turn arises from the order passed by the Assessing Officer (for short, "A.O.") under Section 147

r.w.s. 144 r.w.s. 144B of the Income Tax Act, 1961 (for short “the Act”) dated 31.01.2024 for A.Y. 2018-19. The assessee has assailed the impugned order on the following grounds of appeal before us:

- “1. The order of the learned Commissioner of Income Tax (Appeals) is contrary to the facts and also the law applicable to the facts of the case.
2. The learned Commissioner of Income Tax (Appeals) ought to have quashed the notice issued u/s 148 of the Act as barred by limitation, inasmuch as the notice was issued beyond three years from the end of A.Y. 2018-19, and the Assessing Officer did not have information suggesting that income of the appellant had escaped assessment for more than ₹50 lakhs.
3. Without prejudice to Ground No.2 above, the learned Commissioner of Income Tax (Appeals) ought to have quashed the notice issued u/s 148 of the Act as invalid, and consequently ought to have quashed the reassessment proceedings as void ab initio, inasmuch as there was no nexus between the information available and the belief formed.
4. The learned Commissioner of Income Tax (Appeals) ought to have held that since the Assessing Officer had not made any addition with respect to the reasons recorded in the order u/s 148A(d), he was precluded from making other additions.
5. Without prejudice to Grounds No.2 to 4 above, the learned Commissioner of Income Tax (Appeals) is not justified in upholding the action of the Assessing Officer in rejecting the books of account.
6. Without prejudice to the above, the learned Commissioner of Income Tax (Appeals) ought to have held that the profit estimated by the Assessing Officer at 8% is on the higher side.
7. The appellant craves leave to add, amend, modify, rescind, supplement, or alter any of the above grounds of appeal at or before the time of hearing.

2. Apart from that, the assessee has raised additional grounds of appeal which read as under:

- “1. The notice u/s 148A(b) issued on 27.03.2022 did not provide for clear 7 days of time to the appellant and hence the same is invalid and consequently the entire reassessment proceedings are liable to be quashed.

2. The notice dt.04.04.2022 issued u/s 148 of the Act is invalid as the same was issued by the JAO but not the FAO, in contravention of the provisions of S.151A of the Act and hence the notice is liable to be quashed as invalid.

3. The notice dt.04.04.2022 issued u/s 148 of the Act is invalid in as much as the approval was granted by PCIT-1, Visakhapatnam which is contrary to the provisions of S.151(ii) of the Act.

3. As the assessee by raising the aforesaid additional grounds of appeal, has sought our indulgence for adjudicating legal issues which would not require looking any further beyond the facts available on record, therefore, we have no hesitation in admitting the same. Our aforesaid view is fortified by the judgment of the **Hon'ble Supreme Court** in the case of **National Thermal Power Company Ltd. Vs. CIT (1998) 229 ITR 383 (SC)**.

4. Succinctly stated, the case of the assessee was flagged in accordance with the Risk Management Strategy formulated by the CBDT, based on the fact that he had during the subject year made substantial financial transactions, viz. (i) cash deposits in current Account No.044611100002360 held with Andhra Bank: Rs. 3,97,67,700/-; (ii) cash deposits in current Account No.5020009212053 held with HDFC Bank: Rs. 1,59,80,500/-; and (iii) cash deposits in current Account No.0446100270000177 and 044630100058411 held with Andhra Bank: Rs.17,63,437/-. The A.O. observed that as the assessee had not filed his return of income for the subject year, thus issued notice u/s 148A(b) of the Act, dated 22.03.2022. Thereafter, the A.O. passed an order u/s 148A(d) of the Act, dated 03.04.2022, and issued the consequential notice u/s 148 of the Act, dated 04.04.2022. In compliance,

the assessee filed his return of income for A.Y. 2018-19 on 22.02.2025, declaring an income of Rs. 4,30,450/-.

5. During the course of assessment proceedings, the assessee, inter alia, objected to the initiation of the assessment proceedings u/s 148A r.w.s 151 of the Act. Also, the assessee objected to the proposed variation as was sought to be made by the A.O. to his returned income.

6. Thereafter, the A.O. vide his Show-Cause Notice ("SCN") dated 20.11.2023, inter alia, called upon the assessee to put forth an explanation as to why his financials, being unreliable as per the observation of the auditor in his report published in "Form No. 3CD", wherein he had specifically stated that neither the cash balance nor the details of the sundry creditors/debtors or quantitative stocks, etc. were made available to him, thus, may not be rejected u/s 145(3) of the Act. Accordingly, the A.O. called upon the assessee to explain as to why his net profit may not be determined @ 8% of his declared turnover of Rs. 4,38,65,617/-, resulting to an addition of Rs. 35,09,250/-.

7. Thereafter, the A.O. in the absence of any plausible explanation filed by the assessee, rejected his books of accounts u/s 145(3) of the Act, and framed the assessment to the best of his judgment, wherein the net profit of the assessee was estimated @ 8% of his declared turnover of Rs. 4,38,65,617/- determining the same at Rs. 35,09,250/-. Accordingly, the A.O. vide his order

passed u/s 147 r.w.s 144 r.w.s 144B of the Act, dated 31.01.2024, determined the income of the assessee at Rs. 39,39,700/-.

8. Aggrieved, the assessee carried the matter in appeal before the CIT(A). Although the assessee had assailed the impugned assessment based on his multi-facet contentions regarding the invalid assumption of jurisdiction by the A.O. and also the merits of the additions so made by him, but the same did not find favour with the CIT(A), who dismissed the appeal. For the sake of clarity, the observations of the CIT(A) are culled out as under:

## 5. Decision

I have perused the grounds of appeal, statement of facts, assessment order submissions made by the Appellant and other evidences on records.

### 5.1. Ground 1

Vide this Ground, the Appellant has challenged the assessment proceedings being bad in law. The Appellant has submitted that it is well settled that cash deposits in bank accounts, by themselves do not constitute any taxable income. Since the period of three years had already lapsed as on 31.03.2022, there is no prima facie satisfaction arrived at for the order dtd. 03.04.2022, u/s. 148A(d), that the income escaping assessment is Rs.50 lakhs or more. For resorting to section 147 and 148, the revenue should cross the hurdle of section 151(ii) to establish that escaped income is Rs.50 lakhs or more. In support of this contention, the Appellant has placed reliance on various case laws. As the preliminary condition for invoking section 147 and section 148 r.w.s. 151(ii) is not satisfied, the proceedings and order of assessment on such invalid notices are not legally tenable and are liable to be quashed.

5.1.1. I have considered the submissions made by the Appellant. I have also perused the assessment order. It is undisputed fact that the AO was in possession of

credible information that there are cash deposits exceeding Rs.5,00,00,000/- in bank accounts of the Appellant(Rs.3,97,67,700/-and Rs.17,63,437/- in Andhra Bank Accounts and Rs.1,59,80,500/- in HDFC Bank). The AO, further, found that inspite of such huge cash deposits, the Appellant did not file return u/s 139(1) of the Act. Thus, the Appellant formed a reasonable belief that income of the Appellant has escaped assessment. The AO, thereafter, followed due process of law as provided u/s 148A of the Act. Since, the AO was not satisfied with the explanation given by the Appellant u/s 148A(b), he passed order u/s 148A(b) after obtaining approval from the competent authority. In this regard, the Appellant has raised legal issue that since amount escaping assessment was less than Rs.50,00,000/-, the AO could not have issued beyond the period of 03 years. However, in the case of the Appellant, the AO has asked the Appellant to explain the nature of cash deposits exceeding Rs.5,00,00,000/-. Thus, its quite obvious that income escaping assessment exceeded Rs.50,00,000/. As regards contention of the Appellant that cash deposits, *per se*, do not constitute income, the same is not correct in view of section 69A of the Act. As per the said section unexplained cash deposits in the bank account is deemed to be income of the assessee, if certain conditions are met. Further, the Appellant has not furnished any evidence that approval for issue of notice u/s 148 was not obtained from the competent authority. Thus, in view of these facts and discussion, I hold that the AO has validly re-opened the assessment. There is nothing illegality about the reopening done by the AO. **Ground is, thus, dismissed.**

As regards case laws relied upon by the Appellant, the same are distinguishable on facts and hence, not relevant in the case of the Appellant

## 5.2. Ground 2

Vide this ground, the Appellant has challenged the re-assessment proceedings as being bad in law on the ground that the reassessment has been made without making any addition which is referable to or based on the reasons recorded for formation of belief while initiating proceeding under Section147 of the Income Tax Act, 1961. In this regard, the Appellant has submitted that notice was issued on the belief that there is cash deposit of Rs.5,75,11,637/- in the bank account. However, the actual cash deposit was only Rs.3,84,17,787/- which is below the turnover of the Appellant. Thus, the very basis of reopening is on incorrect facts. In support of the contention that the reopening is bad in law, the Appellant has placed reliance on various case laws.

5.2.1. I have considered the submissions of the Appellant. I find that the AO was in receipt of credible information that there were cash deposits of Rs.5,75,11,637/- in three different bank accounts of the Appellant. However, after submission of details from the Appellant, it was found out that the actual cash deposits were Rs.3,84,17,787/- In my considered opinion, this minor inconsistency in facts, does not make the reopening bad in law. It is settled issue that at the time of the commencement of the reassessment proceedings, the Assessing Officer has to see whether there is prima facie material, on the basis of which, the AO would be justified in reopening the case. The sufficiency or correctness of the material is not a thing to be considered at that stage. The expression "reason to believe" appearing in Section 147 suggests that if the AO acts as a reasonable and prudent man on the basis of the information secured by him that there is a case for reopening, then Section 147 can well be pressed into service and the assessments be reopened. This is very much evident from the 'Reasons for Reopening' in the case of the Appellant. It is also a settled issue that as a consequence of such reopening, certain other facts may come to light. There is no ban or any legal embargo under Section 147 for the Assessing Officer to take into consideration such facts which come to light either by discovery or by a fuller probe into the matter and reassess the assessee in detail if circumstances require. This is evident from Explanation 3 to section 147 of the Act. It is not necessary that the Income Tax Officer should hold a quasi-judicial inquiry before acting under Section 147. It is enough if he on the information received believes in good faith that the assessee's profits have escaped assessment or have been assessed at a low rate. It is a settled issue that the validity of the assumption of jurisdiction under Section 147 can be tested only by reference to the reasons recorded under Section 148(2) of the Act. As discussed above, the 'Reasons for Reopening for reopening' Appellant's assessment for the relevant year meets the above criteria. With regards to the these observations, **reliance is placed on the decision of Hon'ble Jurisdictional Gujrat High Court in the case of Kantibhai Dharamshibhai Narola Vs.ACIT,C/SCA/19549/2018, dated 06/01/2021** wherein, the Hon'ble High Court has placed reliance on various decisions of Apex Court and other High Courts to come to the above conclusions..

Thus, in view of the above discussion and respectfully following the decision of Hon'ble Gujarat High Court in the case of Kantibhai Dharamshibhai Narola (supra), I uphold the action of the AO in reopening the assessment. **Ground is, thus, dismissed.**

As regards case laws, relied upon by the Appellant, the same are distinguishable on facts and hence, not relevant in the case of the Appellant.

**5.3. Ground 3**

Vide this ground, the Appellant has submitted that the AO has erred in rejecting books of accounts without pointing out any specific defects in the same. In this regard, the Appellant has placed reliance on various case laws.

**5.3.1.** I have considered the submissions made by the Appellant. I have also perused the assessment order. I find that the AO has rejected books of accounts since the Appellant has failed to furnish bills and vouchers. Further, the AO has observed that the auditor has specifically mentioned in Form 3CB that neither cash balance nor details of sundry creditors and debtors and quantitative stocks, etc were made available to him. The Appellant has not furnished relevant details before the AO to negate the above observations made by his auditor. Thus, the AO has rightly rejected the books of accounts. In my considered opinion, the AO has given proper reasons before rejecting books of accounts. In view of the same, **the ground is dismissed.**

As regards case laws relied upon by the Appellant, the same are distinguishable on facts and hence, not relevant in the case of the Appellant.

**5.4. Grounds 4 and 5**

Vide these grounds, the Appellant has submitted that the income returned by him is fair considering that he was carrying out the business of whole sale distribution which did not require much capital and man power. The profit margin in the line of whole sale business is very low to the extent of about 2%. In support of the contention, the Appellant has placed reliance on some case laws.

**5.4.1.** I have considered the submissions made by the Appellant. I have also perused the assessment order. I find that the AO has rejected the books of accounts on specific findings. Once, the books of accounts have been rejected, the AO is not bound to follow the profit margin declared by the assessee. The AO, in his wisdom, based on the details available on record, has worked out the net profit @8% of the turnover of the Appellant. The Appellant has not pointed any specific flaw as to how and why the AO has erred in taking the profit margin @8% of the turnover. Further, even in cases of whole sale distribution business, there is no thumb rule that the profit margin cannot exceed 2% of the turnover. Each case has to be assessed on the basis of its peculiar facts. In view of the same, I uphold the action of the AO in

making an addition of Rs.35,09,250/-. **Ground is, thus, dismissed.**

**5.5. As regards Ground 6,** since the Appellant has not added, altered and substituted any of the grounds of appeal, the ground is **dismissed as not pressed.**

9. The assessee, being aggrieved with the order of the CIT(A), has carried the matter in appeal before us.

10. The learned Authorized Representative (for short "Ld.AR") for the assessee, at the threshold of hearing of the appeal, submitted that the A.O. had grossly erred in law and on facts of the case in assuming jurisdiction and framing the impugned assessment vide his order passed u/s 147 r.w.s 144 r.w.s 144B of the Act, dated 31.01.2024. Elaborating on his contention, the Ld. AR submitted that, as notice u/s 148 of the Act, dated 04.04.2022 for the year under consideration i.e. A.Y. 2018-19 had been issued by the A.O. beyond a period of three years from the end of the relevant assessment year, therefore, as per the mandate of Section 151 of the Act, as was made available on the statute by the Finance Act, 2021 w.e.f. 01.04.2021 and was applicable at the time of issuing of the notice, the said notice could have been issued only after obtaining the prior approval of the authorities contemplated in sub-section (ii), viz. Principal Chief Commissioner/Principal Director General/Chief Commissioner/Director General. The Ld. AR submitted that the notice u/s 151 of the Act, dated 04.04.2022 in the case of the assessee had been issued after obtaining the prior approval of the Pr. CIT, Visakhapatnam-1 on

02.04.2022. The Ld. AR, to fortify her contention, has drawn our attention to the notice u/s 148 of the Act, dated 04.04.2022, which revealed that the same was issued after obtaining the prior approval of Pr. CIT, Visakhapatnam-1 accorded on 02.04.2022 vide reference No.100000029868259 (Page 6 of APB). Carrying his contention further, the Ld. AR submitted that as the impugned notice u/s 148 of the Act, dated 04.04.2022 had been issued by the A.O. without obtaining the approval of the specified authority, therefore the said notice and the consequential assessment framed by him vide his order passed u/s 147 r.w.s 144 r.w.s 144B of the Act, dated 31.01.2024 cannot be sustained and is liable to be quashed on the said count itself.

11. Per contra, Dr. Aparna Villuri, learned Senior Departmental Representative (for short "Ld. DR"), on being confronted with the aforesaid factual position as was canvassed before us, failed to rebut the same. However, the Ld. DR submitted that as the A.O. after validly assuming jurisdiction had issued notice u/s 148 of the Act, dated 04.04.2022, therefore, no infirmity emanates from the assessment order passed by him.

12. We have heard the Ld. Authorized Representatives of both parties, perused the orders of the lower authorities and the material available on record, as well as considered the judicial pronouncements that have been pressed into service by the Ld. AR to drive home her contentions.

13. As the Ld. AR has assailed the validity of the jurisdiction assumed by the A.O. for issuance of notice u/s 148 dated 04.04.2022, i.e., without obtaining any approval from any of the authorities specified u/s 151 of the Act (as was applicable at the relevant point of time), therefore, we shall first deal with the same.

14. Admittedly, it is a matter of fact discernible from the record that the notice u/s 148 of the Act, dated 04.04.2022, had been issued by the ITO, Ward-2(1), Rajahmundry, after obtaining the prior approval of the Pr. CIT, Visakhapatnam-1, dated 02.04.2022 vide reference No.100000029868259. For the sake of clarity, we deem it fit to cull out the notice u/s 148 dated 04.04.2022.

-left blank intentionally-



GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
INCOME TAX DEPARTMENT  
OFFICE OF THE INCOME TAX  
OFFICER  
WARD -2(1),  
RAJAMAHENDRAVARAM/

To,  
NANDIGAM VEERABRAHMAM  
28 JAMPETA , RAJAHMUNDRY  
EAST GODAVARI 533103 , Andhra Pradesh  
India

PAN:  
BARPV3593F

A.Y:  
2018-19

Dated:  
04/04/2022

DIN & Notice No:  
ITBA/AST/S/148 1/2022-  
23/1042494785(1)

**Notice under section 148 of the Income-tax Act, 1961**

Sir/Madam/ M/s.

- I have the following information in your case or in the case of the person in respect of which you are assessable under the Income tax Act, 1961(here in after referred to as "the Act") for Assessment Year 2018-19
  - information flagged by the risk management strategy formulated in this regard suggesting that income chargeable to tax has escaped assessment within the meaning of section 147 of the Act. Order under sub-section (d) of section 148A of the Act has been passed in such case vide DIN ITBA/AST/F/148A/2022-23/1042460157(1) dated 03/04/2022 and annexed herewith for reference,
- 2. I, therefore, propose to assess or reassess such income or recompute the loss or the depreciation allowance or any other, allowance or deduction for the Assessment Year 2018-19 and I, hereby, require you to furnish, within 30 days from service of this notice, a return in the prescribed form of the Assessment Year 2018-19.
- 3. This notice is being issued after obtaining the prior approval of the **PCIT, Visakhapatnam-1** accorded on date 02/04/2022 vide Reference No. 100000029868259.

SESHAGIRI VALLABHAVAJHULA  
WARD -2(1), RAJAMAHENDRAVARAM/

15. At this stage, we may herein observe that nothing has been placed on our record by the Ld. DR to rebut the aforesaid factual position as has been brought to our notice.

16. Apropos the challenge thrown by the Ld. AR regarding the validity of the jurisdiction assumed by the A.O. for initiating proceedings u/s. 147 of the Act, i.e., without obtaining the approval of the specified authority u/s. 151(ii) of the Act, we find substance in the same. Admittedly, the reassessment proceedings u/s. 147 of the Act had been revamped vide the Finance Act, 2021 w.e.f. 01.04.2021. The substituted Sections 147 to 159 and Section 151 of the Act applicable w.e.f. 01.04.2021 are culled out as under:

**“Income escaping assessment-**

147. If any income chargeable to tax, in the case of an assessee, has escaped assessment for any assessment year, the Assessing Officer may, subject to the provisions of [sections 148](#) to [153](#), assess or reassess such income or recompute the loss or the depreciation allowance or any other allowance or deduction for such assessment year (hereafter in this section and in [sections 148](#) to [153](#) referred to as the relevant assessment year).

Explanation.—For the purposes of assessment or reassessment or recomputation under this section, the Assessing Officer may assess or reassess the income in respect of any issue, which has escaped assessment, and such issue comes to his notice subsequently in the course of the proceedings under this section, irrespective of the fact that the provisions of [section 148A](#) have not been complied with.”.

**Issue of notice where income has escaped assessment**

148. Before making the assessment, reassessment or recomputation under [section 147](#), and subject to the provisions of [section 148A](#), the Assessing Officer shall serve on the assessee a notice, along with a copy of the order passed, if required, under clause (d) of [section 148A](#), requiring him to furnish within such period, as may be specified in such notice, a return of his income

or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under [section 139](#):

Provided that no notice under this section shall be issued unless there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year and the Assessing Officer has obtained prior approval of the specified authority to issue such notice.

Explanation 1.—For the purposes of this section and [section 148A](#), the information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment means,—

- (i) any information flagged in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board from time to time;
- (ii) any final objection raised by the Comptroller and Auditor General of India to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act.

Explanation 2.—For the purposes of this section, where,—

- (i) a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A, on or after the 1st day of April, 2021, in the case of the assessee; or
- (ii) a survey is conducted under section 133A, other than under subsection (2A) or subsection (5) of that section, on or after the 1st day of April, 2021, in the case of the assessee; or
- (iii) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner, that any money, bullion, jewellery or other valuable article or thing, seized or requisitioned under section 132 or under section 132A in case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or
- (iv) the Assessing Officer is satisfied, with the prior approval of Principal Commissioner or Commissioner, that any books of account or documents, seized or requisitioned under [section 132](#) or [section 132A](#) in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee, the Assessing Officer

shall be deemed to have information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the three assessment years immediately preceding the assessment year relevant to the previous year in which the search is initiated or books of account, other documents or any assets are requisitioned or survey is conducted in the case of the assessee or money, bullion, jewellery or other valuable article or thing or books of account or documents are seized or requisitioned in case of any other person. Explanation 3.—For the purposes of this section, specified authority means the specified authority referred to in section 151.”

**Conducting inquiry, providing opportunity before issue of notice under [section 148](#)-**

“148A. The Assessing Officer shall, before issuing any notice under [section 148](#),—

(a) conduct any enquiry, if required, with the prior approval of specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment;

(b) provide an opportunity of being heard to the assessee, with the prior approval of specified authority, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than seven days and but not exceeding thirty days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice under [section 148](#) should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per clause (a);

(c) consider the reply of assessee furnished, if any, in response to the showcause notice referred to in clause (b);

(d) decide, on the basis of material available on record including reply of the assessee, whether or not it is a fit case to issue a notice under [section 148](#), by passing an order, with the prior approval of specified authority, within one month from the end of the month in which the reply referred to in clause (c) is received by him, or where no such reply is furnished, within one month from the end of the month in which time or extended time allowed to furnish a reply as per clause (b) expires:

Provided that the provisions of this section shall not apply in a case where,—

(a) a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A in the case of the assessee on or after the 1st day of April, 2021; or

(b) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any money, bullion, jewellery or other valuable article or thing, seized in a search under section 132 or requisitioned under section 132A, in the case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or

(c) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any books of account or documents, seized in a search under [section 132](#) or requisitioned under [section 132A](#), in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee.

Explanation.—For the purposes of this section, specified authority means the specified authority referred to in section 151.”

**Time limit for notice-**

“149. (1) No notice under [section 148](#) shall be issued for the relevant assessment year,—

(a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);

(b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more for that year:

Provided that no notice under [section 148](#) shall be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April, 2021, if such notice could not have been issued at that time on account of being beyond the time limit specified under the provisions of clause (b) of subsection (1) of this section, as they stood immediately before the commencement of the [Finance Act, 2021](#):

Provided further that the provisions of this subsection shall not apply in a case, where a notice under [section 153A](#), or [section 153C](#) read with [section 153A](#), is required to be issued in relation to a search initiated under [section 132](#) or books of account, other documents or any assets requisitioned under [section 132A](#), on or before the 31st day of March, 2021:

Provided also that for the purposes of computing the period of limitation as per this section, the time or extended time allowed to the assessee, as per showcause notice issued under clause (b)

of [section 148A](#) or the period during which the proceeding under [section 148A](#) is stayed by an order or injunction of any court, shall be excluded:

Provided also that where immediately after the exclusion of the period referred to in the immediately preceding proviso, the period of limitation available to the Assessing Officer for passing an order under clause (d) of [section 148A](#) is less than seven days, such remaining period shall be extended to seven days and the period of limitation under this subsection shall be deemed to be extended accordingly.

Explanation.—For the purposes of clause (b) of this subsection, “asset” shall include immovable property, being land or building or both, shares and securities, loans and advances, deposits in bank account.

(2) The provisions of subsection (1) as to the issue of notice shall be subject to the provisions of [section 151](#).’

**Sanction for issue of notice-**

“151. Specified authority for the purposes of section 148 and section 148A shall be—

(i) Principal Commissioner or Principal Director or Commissioner or Director, if three years or less than three years have elapsed from the end of the relevant assessment year;

(ii) Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General, if more than three years have elapsed from the end of the relevant assessment year.”

17. The **Hon’ble Apex Court** in the case of **Union of India & Ors. Vs. Ashish Agrawal, Civil Appeal No.3005/2022, dated 04.05.2022**, after deliberating at length on the aforesaid amended provisions had, inter alia, observed as under:

“5. We have heard Shri N. Venkataraman, learned ASG appearing on behalf of the Revenue and Shri C.A. Sundaram and Shri S. Ganesh, learned Senior Advocates and other learned counsel appearing on behalf of the respective assessee.

6. It cannot be disputed that by substitution of [sections 147 to 151](#) of the Income Tax Act (IT Act) by the [Finance Act, 2021](#), radical and reformative changes are made governing the procedure for reassessment proceedings. Amended [sections 147 to 149](#) and [section 151](#) of the IT Act prescribe the procedure governing initiation of reassessment proceedings. However, for several reasons, the same gave rise to numerous litigations and the reopening were challenged inter alia, on the grounds such as (1) no valid “reason to believe” (2) no tangible/reliable material/information in possession of the assessing officer leading to formation of belief that income has escaped assessment, (3) no enquiry being conducted by the assessing officer prior to the issuance of notice; and reopening is based on change of opinion of the assessing officer and (4) lastly the mandatory procedure laid down by this Court in the case of [GKN Driveshafts \(India\) Ltd. Vs. Income Tax Officer and ors](#); (2003) 1 SCC 72, has not been followed.

6.1 Further pre [Finance Act, 2021](#), the reopening was permissible for a maximum period up to six years and in some cases beyond even six years leading to uncertainty for a considerable time. Therefore, Parliament thought it fit to amend the [Income Tax Act](#) to simplify the tax administration, ease compliances and reduce litigation. Therefore, with a view to achieve the said object, by the [Finance Act, 2021](#), [sections 147 to 149](#) and [section 151](#) have been substituted.

6.2 Under the substituted provisions of the [IT Act](#) vide [Finance Act, 2021](#), no notice under [section 148](#) of the IT Act can be issued without following the procedure prescribed under [section 148A](#) of the IT Act. Along with the notice under [section 148](#) of the IT Act, the assessing officer (AO) is required to serve the order passed under [section 148A](#) of the IT Act. [section 148A](#) of the IT Act is a new provision which is in the nature of a condition precedent. Introduction of [section 148A](#) of the IT Act can thus be said to be a game changer with an aim to achieve the ultimate object of simplifying the tax administration, ease compliance and reduce litigation.

6.3 But prior to pre-[Finance Act, 2021](#), while reopening an assessment, the procedure of giving the reasons for reopening and an opportunity to the assessee and the decision of the objectives were required to be followed as per the judgment of this Court in the case of [GKN Driveshafts \(India\) Ltd.](#) (supra).

6.4 However, by way of [section 148A](#), 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 showcause 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.

6.5 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 148A\(a\)](#). Only in a case where, the assessing officer is of the opinion that before any notice is issued under [section 148A\(b\)](#) 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.

6.6 Substituted [section 149](#) is the provision governing the time limit 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](#).

7. 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 1st April, 2021. We are in complete agreement with the view taken by the various High Courts in holding so.

8. 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 bonafide 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.

01.04.2021, 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](#). There appears to be genuine nonapplication of the amendments as the officers of the Revenue may have been under a bonafide 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 [IT Act](#), the High Courts ought to have passed an order construing the notices issued under unamended Act/unamended provision of the [IT Act](#) as those deemed to have been issued under [section 148A](#) of the IT Act as per the new provision [section 148A](#) 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. Therefore, we propose to modify the judgments and orders passed by the respective High Courts as under:

(i) The respective impugned [section 148](#) notices issued to the respective assessees shall be deemed to have been issued under [section 148A](#) of the IT Act as substituted by the [Finance Act, 2021](#) and treated to be showcause notices in terms of [section 148A\(b\)](#). 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;

(ii) The requirement of conducting any enquiry with the prior approval of the specified authority under [section 148A\(a\)](#) be dispensed with as a onetime measure visàvis those notices which have been issued under [Section 148](#) of the unamended Act from 01.04.2021 till date, including those which have been quashed by the High Courts;

(iii) The assessing officers shall thereafter pass an order in terms of [section 148A\(d\)](#) after following the due procedure as required under [section 148A\(b\)](#) in respect of each of the concerned assessees;

(iv) 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 and;

(v) 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.

9. 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 assesses as because of a bonafide belief of the officers of the Revenue in issuing approximately 90000 such notices, the Revenue may not suffer as ultimately it is the public exchequer which would suffer.

Therefore, we have proposed to pass the present order with a view 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.

10. In view of the above and for the reasons stated above, the present Appeals are ALLOWED IN PART. The impugned common judgments and orders passed by the High Court of Judicature at Allahabad in W.T. No. 524/2021 and other allied tax appeals/petitions, is/are hereby modified and substituted as under:

(i) 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 148A](#) of the IT Act as substituted by the [Finance Act, 2021](#) and construed or treated to be showcause notices in terms of [section 148A\(b\)](#). 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 assesseees can reply to the showcause notices within two weeks thereafter;

(ii) The requirement of conducting any enquiry, if required, with the prior approval of specified authority under [section 148A\(a\)](#) is hereby dispensed with as a onetime measure visà-vis those notices which have been issued under [section 148](#) of the unamended Act from 01.04.2021 till date, including those which have been quashed by the High Courts. Even otherwise as observed hereinabove holding any enquiry with the prior approval of specified authority is not mandatory but it is for the concerned Assessing Officers to hold any enquiry, if required;

(iii) The assessing officers shall thereafter pass orders in terms of [section 148A\(d\)](#) in respect of each of the concerned assesseees; Thereafter after following the procedure as required under [section 148A](#) may issue notice under [section 148](#) (as substituted);

(iv) All defences which may be available to the assesseees including those available under [section 149](#) of the IT Act and all rights and contentions which may be available to the concerned assesseees and Revenue under the [Finance Act, 2021](#) and in law shall continue to be available.

11. The present order shall be applicable PAN INDIA and all judgments and orders passed by different High Courts on the issue and under which similar notices which were issued after 01.04.2021 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 present order shall also govern the pending writ petitions, pending before various High Courts in which similar notices under [Section 148](#) of the Act issued after 01.04.2021 are under challenge.

12. The impugned common judgments and orders 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.

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.”

(emphasis supplied by us)

18. Apart from that, we find that the CBDT vide Instruction No.01/2022 while directing implementation of the judgment of the **Hon'ble Supreme Court** in the case of **Union of India & Ors Vs. Ashish Agrawal, Civil Appeal No.3005/2022, dated 04.05.2022**, while laying down the procedure that is required to be followed by the jurisdictional Assessing Officers/Assessing Officer had, inter alia, held, that if it is a fit case to issue notice u/s. 148 of the Act, the Assessing Officer shall serve on the assessee a notice u/s 148 after obtaining approval of the specified authority u/s. 151 of the new law.

19. We, thus, in terms of our aforesaid observation, concur with the Ld. AR that in the present case before us for A.Y. 2018-19, wherein notice u/s. 148 of the Act was issued on 04.04.2022, i.e. beyond a period of three years from the end of the assessment year, the A.O. was statutorily obligated to have obtained the approval from either of the authorities specified u/s. 151(ii) of the extant law, viz. Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General. However, as the A.O. had obtained the approval from the Pr. Commissioner of Income Tax, i.e. an authority who was not vested with any jurisdiction as per the mandate of Section 151 of the Act (as made available on the statute w.e.f 01.04.2021),

therefore, the assessment so framed by him u/s.147 r.w.s. 144 r.w.s. 144B of the Act, dated 31.01.2024 being devoid and bereft of valid assumption of jurisdiction, is liable to be quashed. Accordingly, we quash the assessment framed by the A.O. under Section 147 r.w.s. 144 r.w.s. 144B of the Act, dated 31.01.2024 in terms of our aforesaid observations.

20. As we have quashed the assessment framed by the A.O. under Section 147 r.w.s. 144 r.w.s. 144B of the Act, dated 31.01.2024 for want of valid assumption of jurisdiction for issuing notice u/s. 148 of the Act, therefore, we refrain from adverting to and dealing with the other contentions based on which the validity of the assessment order has been challenged before us, which, thus, are left open.

21. In the result, the appeal of the assessee is allowed in terms of our aforesaid observations.

Order pronounced in the Open Court on 3<sup>rd</sup> September, 2025.

<p>Sd/- (एस. बालकृष्णन) (S. BALAKRISHNAN) लेखा सदस्य/ACCOUNTANT MEMBER</p>	<p>Sd/- (रवीश सूद) (RAVISH SOOD) न्यायिक सदस्य/JUDICIAL MEMBER</p>
--	--

Hyderabad, dated 03.09.2025.  
**TYNN/sps**

**आदेशकी प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-**

1.	निर्धारिती/The Assessee	:	Nandigam Veerabrahmam, #28, Jampeta, Rajahmundry, East Godavari District – 533103, Andhra Pradesh.
2.	राजस्व/ The Revenue	:	The Income Tax Officer, Ward-2(1), Rajahmundry.
3.	The Principal Commissioner of Income Tax, Visakhapatnam.		
4.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, / DR, ITAT, Visakhapatnam.		
5.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam