

आयकर अपीलीय न्यायाधिकरण में, हैदराबाद 'ए' बेंच, हैदराबाद

**IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad**

श्री रवीश सूद, माननीय न्यायिक सदस्य एवं श्री मधुसूदन सावडिया, माननीय लेखा सदस्य

**SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER
AND
SHRI MADHUSUDAN SAWDIA, HON'BLE ACCOUNTANT MEMBER**

आयकर अपीलसं./I.T.A.No.997/Hyd/2024
(निर्धारण वर्ष/ Assessment Year: 2018-19)

| | | |
|--|-----|---|
| Income Tax Officer Ward-3(1) Hyderabad | Vs. | Stypack Private Limited Hyderabad PAN :AACCS8673G |
| (अपीलार्थी/ Appellant) | | (प्रत्यर्थी/ Respondent) |

**Cross Objection No.27/Hyd/2024
(Arising out of आयकर अपीलसं./I.T.A.No.997/Hyd/2024)
(निर्धारण वर्ष/ Assessment Year: 2018-19)**

| | | |
|---|-----|--|
| Stypack Private Limited Hyderabad PAN :AACCS8673G | Vs. | Income Tax Officer Ward-3(1) Hyderabad |
| (अपीलार्थी/ Appellant) | | (प्रत्यर्थी/ Respondent) |

| | | |
|--|---|-----------------------------|
| करदाता का प्रतिनिधित्व/ Assessee Represented by | : | Shri G.V.N.Hari, Advocate |
| राजस्व का प्रतिनिधित्व/ Department Represented by | : | Shri Gurupreet Singh, Sr.DR |
| सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing | : | 04.09.2025 |
| घोषणा की तारीख/Dt. of Pronouncement | : | 12.09.2025 |

ORDER

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

The present appeal filed by the revenue is directed against the order passed by the Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 07.08.2024, which in turn arises from the order passed by the Assessing Officer (for short, "A.O.") under Section 147 r.w.s.144B of the Income Tax Act, 1961 (for short "the Act") dated 21.03.2024 for A.Y. 2018-19. The revenue has assailed the impugned order on the following grounds of appeal before us:

- (i) The Order of the Id CIT(A) is erroneous both on facts and in law.
- (ii) The Id CIT(A) ought to have appreciated the fact that the assessee failed to prove the genuineness of the abnormal and exponential growth of 200% of a scrip within a short span of time which has been subjected to SEBI Adjudication as that of a RING transaction between closely connected persons to inflate the value of a loss making company.
- (iii) The Id CIT(A) ought to have appreciated the fact that the appellant is not a frequent trader but only undertaken a standalone transaction which has been rigged and ringed by closely connected persons with exponential growth of scrip without any financial justification.
- (iv) The Id CIT(A) ought to have appreciated the fact that the appellant resorted to the dubious ways for converting his unexplained money into purported exempted LTCG through colourable devices.
- (v) The Id CIT(A) ought to have appreciated the fact that 'phenomenal increase in price of penny stock by way of rigging as well as modus operandi and such outstanding profit in penny stock' are against the human probability.
- (vi) Any other ground that may be craved to be added amended during the course of hearing

2. Apart from that, the assessee company is before us as a cross-objector on the following grounds:

(i) The learned Commissioner of Income Tax (Appeals) is justified in holding that the jurisdictional assessing officer is not empowered to issue notice u/s 148 and hence the notice issued u/s 148 is invalid.

(ii) The learned Commissioner of Income Tax (Appeals) is justified in deleting the addition of Rs.4,15,72,863.made by the assessing officer u/s 68 of the Act by disallowing the exemption claimed in respect of long terms capital gains and by considering the same as unexplained money.

(iii) The learned Commissioner of Income Tax (Appeals) ought to have held that the notice issued u/s 148 of the Act is invalid even on the ground that such notice was issued without approval from the authority as specified in S.151 of the Act,

(iv) The learned Commissioner of Income Tax (Appeals) ought to have held that the notice issued u/s 148A(b) without providing the relevant information to the respondent is in violation of the principles laid down by Hon'ble Supreme Court and consequently the notice issued u/s 148 is invalid.

(v) Any other grounds of Cross-Objection that may be raised at the time of hearing

3. Succinctly stated, the AO based on information gathered from the Insight Portal and the order dated 28.04.2022 passed u/s 148A(d) of the Act, that the name of the assessee company, viz., Stypack Pvt. Ltd. (PAN : AACCS8673G), had surfaced as one of the beneficiaries in the course of search and seizure proceedings conducted u/s 132 of the Act on Shri Naresh Jain, an infamous accommodation entry provider and his syndicate members on 19.03.2019, initiated proceedings u/s 147 of the

Act. Order u/s 148A(d) of the Act was passed by the A.O., followed by a notice u/s 148 of the Act, dated 28.04.2022.

4. During the course of the assessment proceedings, the AO observed that the assessee company, as per its annual summary information, had during the subject year carried out the following transactions:

- (i) Purchase of equity shares of Rs.1,96,57,672/- on NSE during the year
- (ii) Sale of equity shares of Rs.5,62,81,476 on NSE and Rs.66,605/- on BSE totalling to Rs.5,63,48,081/-
- (iii) Interest income of Rs.7,25,000/- from IDBI Bank and Rs.45,860/- from Cosmos Bank totalling to Rs.7,70,860/-

5. On perusal of the record, the AO observed that the assessee company had claimed to have earned long term capital gain (LTCG) during the subject year, as under :

- (i) LTCG of Rs.4,15,72,863/- from the sale of shares of Steel Exchange of India Ltd. for Rs.6,16,16,600/- during the AY 2018-19 on an investment of Rs.2,00,46,737/- in May 2015, and
- (ii) LTCG of Rs.12,90,312/- from the transaction in shares of various reputed companies on an investment of Rs.14,68,122/-

6. The AO observed that, as per the capital gains statement and the details of the stock purchased and sold by the assessee company in

respect of its transactions carried through its broker, viz. M/s RLP Securities Pvt. Ltd., it was found to have sold the shares of Steel Exchange India Ltd. ("SEIL"), as under:

(i) On 20/11/2017 @Rs.120.52 per share and on 27/11/2017 @124.10 per share. Total sale value of the share was Rs.6,16,16,600/- for 5 lakhs shares i.e. at the average rate of Rs.123.23 per share in the AY 2018-19 relevant to FY 2017-18.

(ii) Whereas the total purchase value of these shares were Rs.2,00,43,737/- on 06/05/2015 at the average rate of Rs.40.087 per share [minimum Rs.38.91 per share & maximum Rs.40.16 per share]

(iii) Rs.123.23/- is approximately 3.074 times of Rs.40.087/-. Thus, the price of the share rose by 200% during the period of around 2 years 08 months.

7. The AO, based on the information shared by the Investigation Wing of the Income Tax Department that the shares of the company viz., SEIL were rigged by Shri Naresh Jain and his syndicate members, coupled with the fact that the assessee company had projected to have earned a profit of 200% within 2 years 8 months holding of the said shares, called for certain details from the assessee company. As the explanation of the assessee company did not inspire any confidence with the AO, thus, he held a firm conviction that the assessee company had failed to come forth with any cogent financial analysis supporting its claim of having earned a whopping profit of 200% on the aforesaid transactions of purchase/sale

of shares of SEIL. The A.O., taking cognizance of the fact that M/s SEIL was in a debt trap and was making losses during the period when the assessee company had purchased its shares, therefore, held a firm conviction that the shares of the said company were rigged by Shri. Naresh Jain (supra) and the members of his syndicate, who were involved in providing accommodation entries in the form of long term and short term capital gains/losses. As the assessee company failed to give any financial justification and prudence behind its investment, which had generated the phenomenal profit that was exempt from tax, therefore, the AO was of the view that the said transaction was a colourable device for facilitating an accommodation entry. Thus, the AO, backed by his aforesaid observations, held the LTCG of Rs. 4,15,72,863/- (supra) as an unexplained cash credit u/s 68 of the Act.

8. Aggrieved, the assessee company carried the matter in appeal before the CIT(A).

9. On perusal of the CIT(A) order, we find that it was, inter alia, observed by him that as the notice u/s 148 of the Act, which should have been issued in a faceless manner, was issued by the Jurisdictional Assessing Officer (“JAO”), therefore, concurred with the assessee company that the A.O had wrongly assumed jurisdiction for framing the

assessment vide his order passed Section 147 r.w.s.144B of the Income Tax Act, 1961 (for short “the Act”) dated 21.03.2024. However, we find that the assessee company had, inter alia, assailed the validity of the order passed by the AO u/s 148A(d) of the Act dated 28.04.2022 for the reason that as the same was passed without obtaining the approval of the specified authority u/s 151 of the Act, therefore, the consequential assessment order passed by him u/s 147 r.w.s. 144B of the Act dated 21.03.2024 was *void-ab-initio*, but the same did not find favour with the CIT(A). The CIT(A) observed that, as per the provisions of section 151 of the Act, the PCIT was the specified authority for approval u/s 148A(d) of the Act if three years or less than three years have elapsed from the end of the relevant assessment year. The CIT(A) further observed that if more than three years have elapsed from the end of the relevant assessment year, then the approval of the Pr. CCIT/CCIT was to be taken. The CIT(A), though observed that the specified authority for taking approval u/s 148 of the Act in the case of the assessee company, wherein at the time of passing of order u/s 148A(d) of the Act, a period of more than three years had elapsed from the end of the assessment year i.e., 2018-19 was the Pr. CCIT/CCIT, but as all the procedural formalities were completed by the AO before the notice was issued, therefore, no infirmity did emerge from the proceedings initiated u/s 148 of the Act. Accordingly, the CIT(A)

dismissed the aforesaid contention of the assessee company. Thereafter, the CIT(A), after deliberating on the other facets of the contentions that were raised by the assessee/appellant before him, partly allowed the appeal for statistical purposes.

10. The revenue, aggrieved with the order of the CIT(A), has carried the matter in appeal before us. Also, the assessee company is before us as a cross-objector, wherein it has assailed the validity of the jurisdiction assumed by the A.O. for framing the impugned assessment.

11. Shri G.V.N. Hari, the learned Authorized Representative (for short "Ld.AR") for the assessee company, 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 21.03.2024 Elaborating on his contention, the Ld. AR submitted that, as notice u/s 148 of the Act, dated 28.04.2022 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 issuance of the subject notice, the same

could have been issued only after obtaining the prior approval of the authorities contemplated in sub-section (ii) of Section 151 of the Act, viz. Principal Chief Commissioner/Principal Director General/Chief Commissioner/Director General. The Ld. AR submitted that the notice u/s 148 of the Act, dated 28.04.2022, in the case of the assessee company had been issued after obtaining the prior approval of the PCIT, Hyderabad-1 on 28.04.2022. The Ld. AR, to fortify his contention, has drawn our attention to the notice u/s 148 of the Act, dated 28.04.2022, which revealed that the same was issued after obtaining the prior approval of the PCIT, Hyderabad-1 accorded on 28.04.2022, vide reference No.100000029931890 (Page 47 of APB). Carrying his contention further, the Ld. AR submitted that as the impugned notice u/s 148 of the Act, dated 28.04.2022 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 21.03.2024 cannot be sustained and is liable to be quashed on the said count itself.

12. Per contra, Shri Gurpreet Singh, DR (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 28.04.2022, therefore, no infirmity emerges from the assessment order passed by him.

13. 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 his contentions.

14. As the Ld. AR has assailed the validity of the jurisdiction assumed by the A.O. for issuing notice u/s 148 of the Act, dated 28.04.2022, i.e., without obtaining the 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.

15. Admittedly, it is a matter of fact discernible from the record that in the case of the present assessee company, the notice u/s 148 of the Act, dated 28.04.2022, had been issued by the ACIT, Circle-3(1), Hyderabad, after obtaining the prior approval of the PCIT, Hyderabad-1, dated 28.04.2022, vide reference No. Pr.CIT-1/100000029931890. For the sake of clarity, we deem it fit to cull out the notice u/s 148 of the Act, dated 28.04.2022, as under:



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE ASSISTANT
COMMISSIONER OF INCOME TAX
CIRCLE 3(1),HYDERABAD

(47)

| | |
|---|--|
| To, STYPACK P LTD FLAT NO .137/1 PHASE II , IDA CHERLAPALLY CHERLAPALLY RANGA REDDY DISTRICT 500051 , Telangana India | |
|---|--|

| | | | |
|--------------------|-----------------|---------------------|--|
| PAN: AACCS8673G | A.Y: 2018-19 | Date: 28/04/2022 | DIN & Notice No: ITBA/AST/S/148 1/2022- 23/1042890797(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/2022-23/1042888525(1) dated 28/04/2022 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, Hyderabad-1 accorded on date 28/04/2022 vide Reference No. 100000029931890.

MATHIVANAN SA
CIRCLE 3(1),HYDERABAD

16. 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.

17. 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.”

18. 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 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.

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 non-application 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 assesseees 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 show cause notices in terms of [section 148A\(b\)](#). The respective assessing officers shall within thirty days from today provide to the assesseees the information and material relied upon by the Revenue so that the assesseees 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 vis-à-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;
- (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 assesseees;
- (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 assesseees.

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 assesseees 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 assesseees 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 show cause notices in terms of [section 148A\(b\)](#). The assessing officer shall, within thirty days from today provide to the respective assesseees information and material relied upon by the Revenue, so that the assesseees can reply to the show cause 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 vis-à-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 assesses 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)

19. Apart from that, we find that the CBDT vide Instruction No.01/2022 directing the 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.

20. 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 28.04.2022, 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 21.03.2024, being devoid and bereft of a valid assumption of jurisdiction, cannot be sustained and 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 21.03.2024, in terms of our aforesaid observations.

21. 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 21.03.2024, for want of a valid assumption of jurisdiction for issuing notice u/s. 148 of the Act, therefore, we refrain from advertent to and dealing with the contentions based on which the revenue has assailed before us the order passed by the CIT(A), which, thus, having been rendered as academic in nature, are left open.

21. In the result, the appeal of the revenue is dismissed, while the cross-objection of the assessee company is allowed in terms of our aforesaid observations.

Order pronounced in the Open Court on 12th September, 2025.

| | |
|---|---|
| Sd/- (मधुसूदन सावडिया) (MADHUSUDAN SAWDIA) लेखा सदस्य/ACCOUNTANT MEMBER | Sd/- (रवीश सूद) (RAVISH SOOD) न्यायिक सदस्य/JUDICIAL MEMBER |
|---|---|

Hyderabad, dated 12.09.2025.

*#*L.Rama /sps*

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

| | | | |
|----|--|---|---|
| 1. | निर्धारिती/ The Assessee | : | M/s Stypack Private Limited, Flat No.137/1, Phase II, IDA Cherlapally, Hyderabad |
| 2. | राजस्व/ The Revenue | : | The Income Tax Officer, Ward-3(1), Hyderabad |
| 3. | The Principal Commissioner of Income Tax, Hyderabad | | |
| 4. | विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, / DR, ITAT, Hyderabad | | |
| 5. | गार्डफ़ाईल / Guard file | | |

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad