आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

श्री विजय पाल राव, उपाध्यक्ष एवं श्री मधुसूदन सावडिया, लेखा सदस्य के समक्ष ।

BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT
AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं /**ITA No.116 & 481/Hyd/2022**
Assessment Years 2017-2018 & 2018-2019

Repal Renewables Private Limited, Hyderabad – 500 081 PAN AAGCR9762B	vs.	The DCIT, Circle-3(1), Hyderabad.
(Appellant)		(Respondent)
निर्धारिती द्वारा /Assessee by:	Sri Harsh R Shah, Advocate & CA Karan Jain	
राजस्व द्वारा /Revenue by:	MS U Mini Chandran, CIT-DR	

सुनवाई की तारीख/Date of hearing:	19.11.2025
घोषणा की तारीख/Pronouncement:	26.11.2025

आदेश/ORDER

PER VIJAY PAL RAO, VICE PRESIDENT :

These two appeals by the assessee are directed against the assessment orders dated 15.02.2022 and 22.07.2022 passed by the Assessing Officer u/sec.143(3) r.w.s.144C(13) of the Income Tax Act [in short "the Act"],

1961, for the assessment years 2017-2018 and 2018-2019, respectively.

ITA.No.116/Hyd./2022 – A.Y. 2017-2018 :

2. The has raised the following grounds of appeal :

"***Payment of interest towards purchase on supplier credit***

1. *On the facts and circumstances of the case and in law, the Id. AO and the Ld. TPO, under the directions of the Hon'ble Dispute Resolution Panel ('DRP'), erred in re-characterizing the transaction of 'Payment of interest towards purchase on supplier credit' as an external commercial borrowing and thereby calculating at its arm's length price. The authorities ought to have appreciated that the transaction undertaken by the Appellant is a trade payable and accordingly at arm's length price.*

2. *Without prejudice, the ld. AO and the Ld. TPO, under the directions of the Hon'ble DRP, erred in computing the amount of transfer pricing adjustment.*

Payment for consultancy services availed

3. *On the facts and circumstances of the case and in law, the Id. AO and the Ld. TPO, under the directions of the Hon'ble DRP, erred in disregarding the Appellant's benchmarking analysis, the documentation maintained thereunder and determining the arm's length price of the transaction of Payment for consultancy services availed as Nil based on 'Other Method" purely on conjectures and surmises, without bringing on record any comparable instances in support thereof.*

Payment of Interest on NCDs

4. *On the facts and circumstances of the case and in law, the Id. AO and the Ld. TPO, under the directions of the Hon'ble DRP, erred in rejecting the Appellant's benchmarking analysis which demonstrated that payment of Interest on NCDs was at arm's length and conducting a fresh benchmarking exercise.*

5. *Without prejudice to the above, on the facts and circumstances of the case and in law, the ld. AO and the Ld. TPO, under the directions of the Hon'ble DRP, erred in selecting comparable instances for determining arm's length price for the payment of Interest on NCDs, which were in-fact not comparable to the Appellant. Once the incorrect comparable instances are rejected from the fresh benchmarking exercise conducted by the Id. TPO, the Appellant's transaction is at arm's length.*

Computation of book profits

6. *On the facts and circumstances of the case and in law, the ld. AO erred in computing the amount of book profits and the consequent taxes as per Section 115JB of the Act. The AO ought to have appreciated that "book profits cannot be enhanced by the quantum of additions under Chapter X.*

Interest under section 2348 and 234D

7. *On the facts and circumstances of the case and in law, the ld. AO erred in computing the interest under Section 234B and Section 234D of the Act while calculating the Appellant's payable demand.*

Initiation of penalty under Section 270A

8. *On the facts and circumstances of the case and in law, the ld. AO erred in initiating penalty proceedings under Section 270A of the Act.*

The above grounds are independent and without prejudice to one another. The Appellant craves leave to add, amend, vary, omit or substitute any of the aforesaid grounds of appeal at any time before or at the time of hearing of appeal, so as to enable the Hon'ble Income-tax Appellate Tribunal to decide this appeal according to law."

3. The assessee has also raised an additional ground by filing an application under Rule 11 of ITAT Rules, 1963. The additional ground raised by the assessee reads as under:

"On the facts and circumstances of the case and in law, the final assessment order dated 15th February 2022 is passed beyond the limitation period prescribed by section 153 of the Income-tax Act, 1961 ('the Act') and accordingly the final assessment order dated 15th February 2022 is bad in law and ought to be quashed in-limine.

The Respondent craves leave to add, amend, delete, rectify, substitute and modify any of the aforesaid grounds of appeal or add a new ground or grounds of appeal at any time before or at the time of hearing the appeal."

ITA.No.481/Hyd./2022 – A.Y. 2018-2019 :

4. The assessee has raised the following grounds :

1. *"On the facts and circumstances of the case and in law, the assessment proceedings in the Appellant's case for AY 2018-19 are barred by limitation and accordingly the final assessment order dated 27 July 2022 ought to be quashed in-limine.*

2. *On the facts and circumstances of the case and in law, the final assessment order dated 27 July 2022 ought to be quashed in-limine as the same is without jurisdiction because it has been passed without following the mandatory directions of the Hon'ble Dispute Resolution Panel ('DRP').*

Payment of interest towards purchase on supplier credit

3. *On the facts and circumstances of the case and in law, the Id. AO and the Ld. TPO, under the directions of the Hon'ble DRP, erred in re-characterizing the transaction of 'Payment of interest towards purchase on supplier credit as an external commercial borrowing and thereby calculating at its arm's length price. The authorities ought to have appreciated that the transaction undertaken by the Appellant is a trade payable and accordingly at arm's length price.*

4. *Without prejudice, the Id. AO and the Ld. TPO, under the directions of the Hon'ble DRP, erred in computing the amount of transfer pricing adjustment.*

Payment of Interest on NCDs

5. *On the facts and circumstances of the case and in law, the Id. AO and the Ld. TPO, under the directions of the Hon'ble DRP, erred in rejecting the Appellant's benchmarking analysis which*

demonstrated that payment of Interest on NCDs was at arm's length and conducting a fresh benchmarking exercise.

6. *Without prejudice to the above, on the facts and circumstances of the case and in law, the Id. AO and the Ld. TPO, under the directions of the Hon'ble DRP, erred in selecting comparable instances for determining arm's length price for the payment of Interest on NCDs, which were in-fact not comparable to the Appellant. Once the incorrect comparable instances are rejected from the fresh benchmarking exercise conducted by the Id. TPO, the Appellant's transaction is at arm's length.*

7. *Without prejudice, the id. AO and the Ld. TPO, under the directions of the Hon'ble DRP, erred in computing the amount of transfer pricing adjustment.*

The above grounds are independent and without prejudice to one another. The Appellant craves leave to add, amend, vary, omit or substitute any of the aforesaid grounds of appeal at any time before or at the time of hearing of appeal, so as to enable the Hon'ble Income-tax Appellate Tribunal to decide this appeal according to law.

5. The assessee has also raised an additional ground by filing an application under Rule 11 of ITAT Rules, 1963. The additional ground raised by the assessee reads as under:

Additional Ground No.1 :

The Assessment Order dated 27th July 2022 passed under section 143(3) read with section 144C(13) of the Income-tax Act, 1961 for AY 2018-19 is void and bad in law as it has been passed beyond the time limit prescribed under section. 153 of the Act.

The Appellant craves leave to add, alter, vary, omit, substitute or amend time before or at, the time of hearing of the appeal, so as to enable the Hon'ble Tribunal to decide this appeal according to law."

6. For the assessment year 2018-2019 the assessee has also raised this legal ground in ground no.1 though raised for the first time before the Tribunal. The additional ground for the assessment year 2017-2018 and ground no.1 for the assessment year 2018-2019 are purely legal in nature challenging the validity of the assessment order passed by the Assessing Officer being barred by limitation as provided u/sec.153 of the Act.

7. We have heard the learned Authorised Representative of the Assessee and the learned DR on the admission of additional ground. There is no dispute that the additional ground raised by the assessee is purely legal in nature and goes to the root of the matter. It is also pertinent to note that for adjudication of this additional ground, no fresh material or record or facts are required to be investigated, verified or considered, but, the same can be adjudicated on the basis of the material and facts already on record.

Accordingly, by following the Judgment of Hon'ble Supreme Court in the case of National Thermal Power Co. Ltd., vs., CIT [1998] 229 ITR 383 (SC) we admit the additional ground raised by the assessee for adjudication.

8. The learned Authorised Representative of the Assessee has submitted that the assessment order passed by the Assessing Officer for the assessment year 2017-2018 on 15.02.2022 is beyond the limitation and, therefore, the same is invalid and liable to be quashed on this ground alone. He has pointed-out that time limit for passing the final assessment order was available up-to 31.12.2019. However, since there was a reference made u/sec.92CA of the Act, therefore, a further period of 12 months was available to the Assessing Officer to pass the assessment order i.e., up-to 31.12.2020. Even by taking the benefit of time extension under Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) **[**in short "TOLA"**]** Act, 2020, the limitation was further extended up-to 30.09.2021, however, the impugned order was passed on 15.02.2022. Therefore, in view of judgment of Hon'ble Madras High Court in the case

of CIT vs., vs., Roca Bathroom Products (P.) Ltd., [2022] 445 ITR 537 (Madras) as well as the Judgment of Hon'ble Bombay High Court in the case of Shelf Drilling Ron Tappmeyer Ltd., vs., ACIT, International Taxation [2023] 457 ITR 161 (Bombay). The assessment order passed by Assessing Officer is invalid and liable to be quashed. Thus, the Learned Counsel for the Assessee has submitted that the overall limitation for passing the assessment order cannot be exceeded as provided u/sec.153(1) read with sub-sec.(4) of said Section and the limitation as provided u/sec.144C(13) is only a restriction on the Assessing Officer to pass the final order within one month from the receipt of the Directions of the DRP and not enlarging the limitation which is provided u/sec.153 of the Act. The Hon'ble Madras High Court has held that provisions u/sec.144C and 153C are not mutually exclusive as both contains the provisions relating to sec.92CA and are inter-dependent and overlapping. Similar view has been taken by the Hon'ble Bombay High Court in the case of Shelf Drilling Ron Tappmeyer Ltd., vs., ACIT, International Taxation (supra) and held that the limitation prescribed u/sec.153 of the Act

would prevail over and above the assessment time limit prescribed u/sec.144C of the Act.

9. On the other hand, learned DR has submitted that the provisions of sec.144C begins with a non-obstante clause and, therefore, sec.144C is a Code in itself so far as the assessments in case of an "eligible assessee" and, therefore, the non-obstante clause in sec.144C(13) excludes the provisions of sec.153 of the Act. Learned DR has submitted that sec.153 of the Act exists in the Income Tax Act for a consequently longer period of time, whereas sec.144C of the Act is relatively a new provision introduced in 2009 and, therefore, the effect of non-obstante clause in sec.144C makes it clear that the provisions of sec.144C would prevail over the provisions of sec.153 of the Act. The learned DR has further submitted that the Income Tax Act provides two different methods of assessment one for the "eligible assessee" as defined u/sec.144C(15)(b) of the Act and the "other method" is applicable for the assessees' who falls under the normal category. In case of ordinary or normal category of assessee , the assessment order must be

completed within the limitation as provided u/sec.153(1) of the Act, whereas, if the matter is referred to the TPO u/sec.92CA of the Act, this period of limitation is further extended by a period of 12 months as per sub-sec.(4) of sec.153. The learned DR has further submitted that as per the special provisions u/sec.144C, the assessee is having an option to accept the Draft Assessment Order and variations in the draft assessment or to object the same by filing objections before the DRP or to the Assessing Officer for going to challenge the order of the Assessing Officer under regular appeal before the learned CIT(A). Therefore, once the assessee decided to go for the objections before the DRP, the limitation for completing the assessment is applicable as provided u/sec.144C(13) of the Act. Thus, the learned DR has submitted that once the Final Assessment Order is passed within the period of 30 days from the receipt of the DRP directions, then, it is well within the period of limitation provided u/sec.144C(13) of the Act. The learned DR has further submitted that this issue is pending adjudication before the Hon'ble Supreme Court. Earlier the Division Bench

of the Hon'ble Supreme Court has given divergent decisions and, therefore, now this controversy has to be resolved by a Larger Bench of Hon'ble Supreme Court. Thus, the learned DR has submitted that till the dispute is resolved by the Larger Bench of the Supreme Court, this issue may be kept open. She has further submitted that the limitation was also extended by the Hon'ble Supreme Court *in case of suo motu Cognizance for Extension of Limitation* reported in Re 441 ITR 722 (SC) and, therefore, as per the Judgment of Hon'ble Supreme Court the limitation was extended up-to the end of 2022 and further period of 90 days was already granted by the Hon'ble Supreme Court. The learned DR has thus, submitted that in view of Judgment of Hon'ble Supreme Court, the assessment order passed for the assessment year 2017-2018 is within the period of limitation.

10. We have considered the rival submissions as well as the relevant material on record. In normal course the limitation for passing the assessment order was available for the assessment year 2017-2018 up-to 31.12.2019. However, since there was a reference u/sec.92CA of the Act, the time

period for completing the assessment gets extended up-to 31.12.2020. Further, due to the Covid-2019 pandemic the Government has notified the TOLA whereby the time period was extended up-to 30.09.2021 vide Notification dated 25.06.2021. Therefore, by considering the extension of time period by Notification of TOLA, the Assessing Officer was to complete the assessment by 30.09.2021, but, in the case in hand, the Assessing Officer has passed the impugned order on 15.02.2022 which is beyond the time limitation provided u/sec.153 as well as extension by Notification of TOLA. The learned Department Representative for the Revenue has also relied upon Judgment of Hon'ble Supreme Court in *suo motu Cognizance for Extension of Limitation* (supra), for extending the limitation. However, in our considered view that the limitation extended by the Hon'ble Supreme Court is not applicable for passing the orders by the Tax Authorities beyond the limitation provided under the Act. The learned Authorised Representative of the Assessee has filed copy of the Circulars dated 157/13/2021 dated 20.07.2021 issued by the Central Board of Indirect Taxes and Customs **[**in short

"CBITC"**]** whereby the CBITC has clarified this point that the extension of limitation was only with reference to the judicial and quasi-judicial proceedings in the nature of appeals/suits /petitions etc., and has not extended to every action or proceedings under the CGST Act, 2017. For ready reference, we reproduce the relevant part of the Circular dated 20.07.2021 vide Paras-3 to 5 as under :

> *"3. Accordingly, legal opinion was solicited regarding applicability of the order of the Hon'ble Supreme Court to the limitations of time lines under GST Law. The matter has been examined on the basis of the legal opinion received in the matter. The following is observed as per the legal opinion:-*
>
> *(i) The extension granted by Hon'ble Supreme Court order applies only to quasi-judicial and judicial matters relating to petitions/ applications/suits/appeals/all other proceedings. All other proceedings should be understood in the nature of the earlier used expressions but can only with reference to judicial and quasi-judicial proceedings. Hon'ble Supreme Court has stepped into to grant extensions only with reference to judicial and quasi-judicial proceedings in the nature of appeals/suits/petitions etc. and has not extended it to every action or proceeding under the CGST Act.*
>
> *(ii) For the purpose of counting the period(s) of limitation for filing of appeals before any appellate authority under the GST Law, the limitation stands extended till further orders as ordered by the Hon'ble Supreme Court in Suo Motu Writ Petition (Civil) 3 of 2020*

vide order dated 27th April 2021. Thus, as on date, the Orders of the Hon'ble Supreme Court apply to appeals, reviews, revisions etc., and not to original adjudication.

(iii) Various Orders and extensions passed by the Hon'ble Supreme Court would apply only to acts and actions which are in nature of judicial, including quasi-judicial exercise of power and discretion. Even under this category, Hon'ble Supreme Court Order, applies only to a lis which needs to be pursued within a time frame fixed by the respective statutes.

(iv) Wherever proceedings are pending, judicial or quasi-judicial which requires to be heard and disposed off, cannot come to a standstill by virtue of these extension orders. Those cases need to be adjudicated or disposed off either physically or through the virtual mode based on the prevailing policies and practices besides instructions if any.

(v) The following actions such as scrutiny of returns, issuance of summons, search, enquiry or investigations and even consequential arrest in accordance with GST law would not be covered by the judgment of the Hon'ble Supreme Court.

(vi) As regards issuance of show cause notice, granting time for replies and passing orders, the present Orders of the Hon'ble Supreme Court may not cover them even though they are quasi-judicial proceedings as the same has only been made applicable to matters relating to petitions/applications/suits, etc.

4. On the basis of the legal opinion, it is hereby clarified that various actions/compliances under GST can be broadly categorised as follows:-

(a) ***Proceedings that need to be initiated or compliances that need to be done by the taxpayers :-*** *These actions would continue to be governed only by the statutory mechanism and time limit provided/ extensions granted under the statute itself. Various Orders of the Hon'ble Supreme Court would not apply to the said proceedings/ compliances on part of the taxpayers*

Quasi-Judicial proceedings by tax authorities:-

The tax authorities can continue to hear and dispose off proceedings where they are performing the functions as quasi-judicial authority. This may interalia include disposal of application for refund, application for revocation of cancellation of registration, adjudication proceedings of demand notices, etc.

Similarly, appeals which are filed and are pending, can continue to be heard and disposed off and the same will be governed by those extensions of time granted by the statutes or notifications, if any.

(c) ***Appeals by taxpayers/ tax authorities against anv quasi-judicial order:-*** *Wherever any appeal is required to filed before Joint Additional Commissioner (Appeals), Commissioner (Appeals), Appellate Authority for Advance Ruling. Tribunal and various courts against any quasi-judicial order or where a proceeding for revision or rectification of any order is required to be undertaken, the time line for the same would stand extended as per the Hon'ble Supreme Court's order.*

5. In other words, the extension of timelines granted by Hon'ble Supreme Court vide its Order dated 27.04.2021 is applicable in respect of any appeal which is required to be filed before Joint Additional Commissioner (Appeals), Commissioner (Appeals),

Appellate Authority for Advance Ruling, Tribunal and various courts against any quasi-judicial order or where proceeding for revision or rectification of any order is required to be undertaken, and is not applicable to any other proceedings under GST Laws."

11. Accordingly, we do not find any merits in the arguments of the learned DR that the limitation for passing the assessment order was extended by the Hon'ble Supreme Court. We further note that even the Hon'ble Supreme Court in the case of Union of India vs., Ashish Agarwal [2022] 444 ITR 1 (SC) and Union of India & Ors. vs. Rajeev Bansal [2024] 469 ITR 46 (SC) has considered the extension of limitation only to the extent of TOLA Notification. We further note that an identical issue has been considered by this Tribunal in the case of **Aveva Solutions India LLP, Hyderabad vs., ITO, Ward-8(1), Hyderabad in ITA.No.1170/Hyd./2024 vide Order dated 19.11.2025 in Paras-7 to 14 as under :**

"*7. We have considered the rival submissions as well as relevant material on record. In the case in hand, the assessee has challenged the validity of the assessment order passed u/sec.143(3) r.w.s.144C(13) of the Act dated 18.10.2024 being barred by limitation as provided u/sec.153 of the Act. At the outset, it is noted that the limitation for passing the assessment orders is provided u/sec.153 of the Act and the relevant provisions are in sub-sec.(1) and sub-sec.(4) of sec.153 reads as under :*

"153. Time limit for completion of assessment, reassessment and re-computation.—

(1) No order of assessment shall be made under section 143 or section 144 at any time after the expiry of twenty-one months from the end of the assessment year in which the income was first assessable.

Provided *that in respect of an order of assessment relating to the assessment year commencing on the 1st day of April, 2018, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "eighteen months" had been substituted:*

Provided further *that in respect of an order of assessment relating to the assessment year commencing on –*

(i) the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "twelve months" had been substituted.

(ii) the 1st day of April, 2020, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "eighteen months" had been substituted.

Provided also that *in respect of an order of assessment relating to the assessment year commencing on the 1st day of April, 2021, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "nine months" had been substituted:*

Provided also *that in respect of an order of assessment relating to the assessment year commencing on the 1st day of April, 2022,*

the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "twelve months" had been substituted:

(1A) xxxxx xxxxx

(1B) xxxxx xxxxx

(2) xxxxx xxxxx

(3) xxxxx xxxxx

(3A) xxxxx xxxxx

(4) *Notwithstanding anything contained in sub-sections (1), (1A), (2) (3) and (3A), where a reference under sub-section (1) of section 92CA is made during the course of the proceeding for the assessment or reassessment, the period available for completion of assessment or reassessment, as the case may be, under the said sub-sections (1), (1A), (2), (3) and (3A) shall be extended by twelve months.*

(5) Where effect to an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 is to be given by the Assessing Officer [or the Transfer Pricing Officer, as the case may be], wholly or partly, otherwise than by making a fresh assessment or reassessment [or fresh order under section 92CA, as the case may be], such effect shall be given within a period of three months from the end of the month in which order under section 250 or section 254 or section 260 or section 262 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be, the order under section 263 or section 264 is passed by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be.

Provided *that where it is not possible for the Assessing Officer [or the Transfer Pricing Officer, as the case may be,] to give effect to such order within the aforesaid period, for reasons beyond his control, the Principal Commissioner or Commissioner on receipt of such request in writing from the Assessing Officer [or the Transfer Pricing Officer, as the case may be], if satisfied, may allow an additional period of six months to give effect to the order.*

Provided further *that where an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 requires verification of any issue by way of submission of any document by the assessee or any other person or where an opportunity of being heard is to be provided to the assessee, the order giving effect to the said order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 shall be made within the time specified in sub-section (3).”*

8. A co-joined reading of sub-sec.(1) with third proviso of this sub-section of sec.153 makes it clear that in normal course, no order of assessment shall be made after the expiry of 9 months from the end of the assessment year in which the income was first assessable. The third proviso is relevant for the case in hand because the assessment year under consideration is 2021-2022 and, therefore, the period of 21 months from the end of the assessment year is reduced to 9 months. Sub-sec.(4) contemplates the cases where a reference u/sec.92CA(1) is made during the course of assessment proceedings, then, the period available for completion of the assessment shall be extended by 12 months. It is an undisputed fact that the present case is falling in the category of an “eligible assessee” where reference u/sec.92CA(1) was made by the Assessing Officer to the TPO and, therefore, the time limit for completing the assessment was extended by 12 months whereby the Assessing

Officer was required to complete the assessment by 31.12.2023. The Assessing Officer has passed the Final Assessment Order on 18.10.2024 in pursuance to the Directions dated 24.09.2024 of the DRP. This controversy of the limitation applicable u/sec.153 or u/sec.144C(13) was considered by the Hon'ble Madras High Court in the case of CIT vs., Roca Bathroom Products (P.) Ltd., (supra) and held in Paras-18 to 28 as under:

18. The main contentions of the Department, through their counsel are that Section 144C is a code in itself and hence on remand by the ITAT, the power of DRP to take up the dispute on additions by TPO, is not circumscribed by Section 153 and that in the absence of any express time limits contemplated under the Act, the time limits under Section 153 for reassessment cannot be read into Section 144C more particularly when the provisions of Section 153 are excluded by the non-obstante clause in section 144C(13) and hence the proceedings are not barred by limitation. Per contra, it has been contended by the learned senior counsels appearing for the respondent(s)/assessees that the outer time limit under Section 153 is applicable to every proceedings on remand and the department having slept over the issue for several years, cannot now redo the proceedings afresh, after certain rights have vested with the assessees. Even if specific provisions are not there to deal with this situation, the proceedings must be concluded within a reasonable time and hence the impugned proceedings are liable to be struck down and rightly done so by the learned Judge.

19. Admittedly, the facts including the dates are not under dispute. As regards the appeal in W.A.No.1854 of 2021, even though the remand was on 24-1-2013 and the assessee had received the order on 8-2-2013, the first notice by the DRP was issued on 19-2-2014 and the first hearing in the Chennai office was on 10-3-2014. Therefore, it is lucid that the DRP had the knowledge of the order before 19-2-2014. The matter was heard on various dates in Chennai office and written submissions were also filed. Thereafter, the files have been transferred to Bengaluru by the CBDT notification dated 31.12.2014. The Learned Judge relying upon the findings in the batch of cases which was decided first and rendered additional findings, which have been extracted in paragraphs 10 and 11 above, has allowed the writ petitions holding that the time limit under Section 153 (2A) was not adhered to and in any case, the proceedings have not been concluded within a reasonable time.

20. As rightly contended by the learned senior counsels and affirmed by the Learned Judge, the DRP proceedings is a continuation of assessment proceedings. To put it further, it is a part of assessment proceedings, once the objections are filed and under section 144C (12) a period of 9 months is prescribed, within which, directions are to be issued by the DRP, failing which any directions are to be treated as otiose. As seen from the timeline discussed in the earlier paragraphs, the original assessment proceedings are to be completed within 21 months and the additional time of 12 months is granted when proceedings before TPO is pending. The TPO has to pass orders before 60 days prior to the last date. Then 30 days time is given to the assessee to file their objection before the DRP and the DRP is given 9 months time and thereafter, within one month from the end of the month of receipt of directions from DRP, the final order is to be passed. This court is not in consonance with the contention of the learned senior panel counsel for the appellants/ revenue that the time period of 33 months, provided initially is for the draft order and not for the final order. A careful perusal of the timeline would indicate that the time limit is for the final assessment and not for the draft order. The anomaly in the argument is that in the present cases, no fresh draft order was passed, but the DRP had issued the notices. If the contention of the appellants / revenue was to hold some water, they must have passed the draft assessment order immediately on receipt of the order from the Tribunal, but instead, notice was issued by the DRP. In any case, it is a far cry for the revenue as because no order has been passed for more than 5 years.

21. As held above, the assessment has to be concluded within 21 months when there is no reference and when there is a reference, it has to be concluded within 33 months. In the additional 12 months, the draft order is to be passed, the objections have to be filed, the DRP has to issue the directions and the final order is to be passed. The provisions under section 144C and section 153 are not mutually exclusive as both contain provisions relating to Section 92CA and are inter-dependant and overlapping. On remand, prior to amendment as per Section 153 (2A), the Assessing officer is given 12 months to pass a fresh assessment order. Therefore, it is incumbent on him to do so, irrespective of the fact that DRP has completed the hearing and issued the directions or not. As rightly held by the learned judge, we are of the view that the DRP ought to have concluded the proceedings within 9 months from the date of receipt of the Tribunal's order, when it had issued a notice on 19-2-2014 and conducted the hearing as early as on 10-3-2014 and on several dates. The DRP at Chennai, in fact ought to have passed orders before 19-11-2014, even if the date of receipt of the notice is taken as 19-2-2014. In that event, the assessing officer ought to have passed the order before 31-12-2014 or at the latest before 31-3-2015 considering that the order was received during the Financial year 2013-14. The transfer of the files to Bengaluru, after the lapse of the time, will not indefinitely extend the time and can have no impact on the time lines. It is an inter-department arrangement and it cannot defeat the rights of the assessee.

22. Insofar as the non-obstante clause in Section 144C(13) is concerned, we concur with the view of the Learned Judge. The exclusion of applicability of Section 153 or Section 153 B is for a limited purpose to ensure that dehors larger time is available, an order based on the directions of the DRP has to be passed within 30 days from the end of the month of receipt of such directions. The section and the sub-section have to be read as a whole with connected provisions to decipher the meaning and intentions. At this juncture it would be useful to refer to the following decisions:

(*i*) *Sultana Begum* v. *Prem Chand Jain* [1997] 1 SCC 373 at page 381:

"11. The statute has to be read as a whole to find out the real intention of the legislature.

12. In *Canada Sugar Refining Co.* v. *R.* [1898 AC 735 : 67 LJPC 126], Lord Davy observed:

"Every clause of a statute should be construed with reference to the context and other clauses of the Act, so as, as far as possible, to make a consistent enactment of the whole statute or series of statutes relating to the subject-matter." .....

14. This rule of construction which is also spoken of as "ex visceribus actus" helps in avoiding any inconsistency either within a section or between two different sections or provisions of the same statute.

15. On a conspectus of the case-law indicated above, the following principles are clearly discernible:

(1) It is the duty of the courts to avoid a head-on clash between two sections of the Act and to construe the provisions which appear to be in conflict with each other in such a manner as to harmonise them.

(2) The provisions of one section of a statute cannot be used to defeat the other provisions unless the court, in spite of its efforts, finds it impossible to effect reconciliation between them.

(3) It has to be borne in mind by all the courts all the time that when there are two conflicting provisions in an Act, which cannot be reconciled with each other, they should be so interpreted that, if possible, effect should be given to both. This is the essence of the rule of "harmonious construction".

(4) The courts have also to keep in mind that an interpretation which reduces one of the provisions as a "dead letter" or "useless lumber" is not harmonious construction.

(5) To harmonise is not to destroy any statutory provision or to render it otiose."

(*ii*) *CIT* v. *Hindustan Bulk Carriers* [2003] 126 Taxman 321/259 ITR 449:

"16. The courts will have to reject that construction which will defeat the plain intention of the legislature even though there may be some inexactitude in the language used. (See *Salmon* v. *Duncombe* [(1886) 11 AC 627 : 55 LJPC 69 : 55 LT 446 (PC)] AC at p. 634, *Curtis* v. *Stovin* [(1889) 22 QBD 513 : 58 LJQB 174 : 60 LT 772 (CA)] referred to in S. Teja Singh case [AIR 1959 SC 352 : (1959) 35 ITR 408]).

18. The statute must be read as a whole and one provision of the Act should be construed with reference to other provisions in the same Act so as to make a consistent enactment of the whole statute.

19. The court must ascertain the intention of the legislature by directing its attention not merely to the clauses to be construed but to the entire statute; it must compare the clause with other parts of the law and the setting in which the clause to be interpreted occurs. (See *R.S. Raghunath* v. *State of Karnataka* [(1992) 1 SCC 335 : 1992 SCC (L&S) 286 : (1992) 19 ATC 507 : AIR 1992 SC 81] .) Such a construction has the merit of avoiding any inconsistency or repugnancy either within a section or between two different sections or provisions of the same statute. It is the duty of the court to avoid a head-on clash between two sections of the same Act. (See *Sultana Begum* v. *Prem Chand Jain* [(1997) 1 SCC 373 : AIR 1997 SC 1006])."

(*iii*) *Franklin Templeton Trustee Services (P.) Ltd.* v. *Amruta Garg* [2021] 124 taxmann.com 326/164 SCL 720:

"17. The concept of "absurdity" in the context of interpretation of statutes is construed to include any result which is unworkable, impracticable, illogical, futile or pointless, artificial, or productive of a disproportionate counter-mischief [See Bennion on Statutory Interpretation, 5th Edn., p. 969.]. Logic referred to herein is not formal or syllogistic logic, but acceptance that enacted law would not set a standard which is palpably unjust, unfair, unreasonable or does not make any sense. [Bennion on Statutory Interpretation, 5th Edn., p. 986.] When an interpretation is beset with practical difficulties, the courts have not shied from turning sides to accept an interpretation that offers a pragmatic solution that will serve the needs of society [Id, p. 971, quoting Griffiths, L.J.]. Therefore, when there is choice between two interpretations, we would avoid a "construction" which would reduce the legislation to futility, and should rather accept the "construction" based on the view that draftsmen would legislate only for the purpose of bringing about an effective result. We must strive as far as possible to give meaningful life to enactment or rule and avoid cadaveric consequences [See Principles of Statutory Interpretation by Justice G.P. Singh, 14th Edn., p. 50.]"

23. Further, similar non-obstante clause is also used in section 144C(4) with a same limited purpose to imply, even though there might be a larger time limit under Section 153, once the order of TPO is accepted or not objected to, causing a deeming fiction of acceptance, the final order is to be passed immediately. The object is to conclude the proceedings as expeditiously as possible and the authority need not wait for the last date to pass the orders. The limitation prescribed under the statute is for the assessing officer and therefore, it is his duty to pass order in time irrespective of whether the directions are received from DRP or not. As held by us above, the DRP will have no authority to issue directions after nine months and a further period of one month as per section 144C (13) and three months under section 153 (2A) is available, within which period no orders have been passed in the present cases. The reference made by the learned senior counsels on the judgments in *Nokia India (P.) Ltd.* (*supra*) and *Vedanta Ltd.* (*Supra*) is well founded. The timeline given under the Act is to be strictly followed.

24. Insofar as the challenge to the show cause notice issued is concerned, though generally, the High Court will be circumspected to interfere at the stage of show cause notice, the law on the point is well settled with exceptions carved in the following cases;

a. when the notice is issued beyond the period of limitation,

b. when the notice is without authority,

c. when notice is issued without following the procedures under the applicable Act or the rules framed thereunder and

d when the notice is issued with a prejudiced mind.

The challenge must be available ex-facie leaving no room for the court to peruse or discuss intricate facts. In the present case, the challenge is on the ground of limitation and hence, we hold that the proceedings under Article 226 of the constitution are maintainable.

25. As regards the relief sought in other appeals viz., W.A.No.1517/2021 etc. batch, the findings rendered above are equally applicable. In these cases, for the assessment year 2009-10, the order of remand to the Assessing officer was passed on 18-12-2015 and insofar as the assessment year 2010-11 is concerned, for one issue, it was passed on 18-12-2015 and for other two issues, it was passed on 23-9-2016 after the amendment, by which time, the time limit was brought down to 9 months. As such, fresh orders ought to have been passed before 31-3-2017 for the assessment year 2009-10 and for one issue relating to the assessment year 2010-11 reckoning the 12 months from the financial year 2015-16 and on or before 31-12-2017 reckoning 9 months from the financial year 2016-17. Therefore, the Assessing officer ought to have passed a draft assessment order immediately and asked the assessee to file their objections with the DRP. For the mistake and the lapse of the Assessing officer, the vested right of the Assessee cannot be taken away.

26. We are not oblivious of the fact that any finding on the aspect of reasonableness in time in passing orders when no time is provided would be superfluous in view of our decision in earlier paragraphs. It is necessary to decide on the issue as in this case, the revenue has taken more than 5 years in one appeal and 4 years in other appeals, which is unacceptable as rightly held by the learned judge. We are not alone on this issue and are fortified by the following judgments of the Hon'ble Supreme Court in this regard.

(*i*) *Bharat Steel Tubes Ltd.* v. *State of Haryana* 1988 taxmann.com 761

"15. Before we part with the case, we would like to indicate that assessment of tax should be completed with expedition. It involves the revenue to the State. In the case of a registered dealer who collects sales tax on behalf of the State, there is no justification for him to withhold the payment of the tax so collected. If a timely assessment is completed, the dues of the State can be conveniently ascertained and collected. Delay in completion of assessment often creates problems. The assessee would be required to keep up all the evidence in support of his transactions. Where evidence is necessary, with the lapse of time, there is scope for its being lost. Oral evidence as and when required to be produced by the assessing authority may not be available if a long period intervenes between the transactions and the consideration of the matter by the assessing authority. Long delay thus is not in the interest of either the assessee or the State. In view of the fact that a period of limitation has been prescribed for bringing the escaped turnover into the net of taxation, such an eventuality cannot be grappled with appropriately unless timely assessment is completed. In several taxing statutes, even in a situation like this, where assessment under Section 11(3) or 28(3) of the respective Acts is contemplated, a period of limitation is provided. Until by statute, such a limitation is provided, it is proper for the State Governments to require, by statutory rules or appropriate instructions, to ensure completion of assessments with expedition and reasonable haste but subject to rules of natural justice."

(*ii*) *Govt. of India* v. *Citedal Fine Pharmaceuticals* [1989] 3 SCC 483 :

"6. Learned counsel appearing for the respondents urged that Rule 12 is unreasonable and violative of Article 14 of the Constitution, as it does not provide for any period of limitation for the recovery of duty. He urged that in the absence of any prescribed period for recovery of the duty as contemplated by Rule 12, the officer may act arbitrarily in recovering the amount after lapse of long period of time. We find no substance in the submission. While it is true that Rule 12 does not prescribe any period within which recovery of any duty as contemplated by the rule is to be made, but that by itself does not render the rule unreasonable or violative of Article 14 of the Constitution. In the absence of any period of limitation it is settled that every authority is to exercise the power within a reasonable period. What would be reasonable period, would depend upon the facts of each case. Whenever a question regarding the inordinate delay in issuance of notice of demand is raised, it would be open to the assessee to contend that it is bad on the ground of delay and it will be for the relevant officer to consider the question whether in the facts and circumstances of the case notice of demand for recovery was made within reasonable period. No hard and fast rules can be laid down in this regard as the determination of the question will depend upon the facts of each case."

(*iii*) *State of Punjab* v. *Bhatinda District Co-op. Milk P. Union Ltd.* [2007] 11 SCC 363 :

'17. A bare reading of Section 21 of the Act would reveal that although no period of limitation has been prescribed therefor, the same would not mean that the suo motu power can be exercised at any time.

18. It is trite that if no period of limitation has been prescribed, statutory authority must exercise its jurisdiction within a reasonable period. What, however, shall be the reasonable period would depend upon the nature of the statute, rights and liabilities thereunder and other relevant factors.

19. Revisional jurisdiction, in our opinion, should ordinarily be exercised within a period of three years having regard to the purport in terms of the said Act. In any event, the same should not exceed the period of five years. The view of the High Court, thus, cannot be said to be unreasonable. Reasonable period, keeping in view the discussions made hereinbefore, must be found out from the statutory scheme. As indicated hereinbefore, maximum period of limitation provided for in sub-section (6) of Section 11 of the Act is five years.

21. In *S.B. Gurbaksh Singh* v. *Union of India* [(1976) 2 SCC 181 : 1976 SCC (Tax) 177 : (1976) 37 STC 425] Untwalia, J., speaking for the Bench, opined : (SCC p. 188, para 15)

"15. Apropos the fourth and the last submission of the appellant, suffice it to say that even assuming that the revisional power cannot be exercised suo motu after an unduly long delay, on the facts of this case it is plain that it was not so done. Within a few months of the passing of the appellate order by the Assistant Commissioner, the Commissioner proceeded to revise and revised the said order. There was no undue or unreasonable delay made by the Commissioner. It may be stated here that an appeal has to be filed by an assessee within the prescribed time and so also a time-limit has been prescribed for the assessee to move in revision. The appellate or the revisional powers in an appeal or revision filed by an assessee can be exercised in due course. No time-limit has been prescribed for it. It may well be that for an exercise of the suo motu power of revision also, the revisional authority has to initiate the proceeding within a reasonable time. Any unreasonable delay in exercise may affect its validity. What is a reasonable time, however, will depend upon the facts of each case."

23. The question as to what would be the reasonable period did not fall for consideration therein. The binding precedent of this Court, some of which had been referred to us heretobefore, had not been considered. The counsel appearing for the parties were remiss in bringing the same to the notice of this Court. Furthermore, from a perusal of the impugned notice dated 4-9-2006, it is apparent that the revisional authority did not assign any reason as to why such a notice was being issued after a period of 5½ years.'

Generally, no hard and fast rule can be laid down to indicate what is a reasonable time. It though depends upon the facts of the each case, drawing a clue from Article 113 of the Limitation Act, the residual entry, it would be reasonable to conclude that in such cases, action is to be concluded within 3 years. Needless to say, if the statute prescribes shorter period, the doctrine of reasonable time will not be applicable and the timeline under the statute is to be strictly followed.

27. For the reasons set out herein before, we conclude as under:

(*a*) The provisions of Sections 144C and 153 are not mutually exclusive, but are rather mutually inclusive. The period of limitation prescribed under Section 153 (2A) or 153 (3) is applicable, when the matters are remanded back irrespective of whether it is to the Assessing Officer or TPO or the DRP, the duty is on the assessing officer to pass orders.

(*b*) Even in case of remand, the TPO or the DRP have to follow the time limits as provided under the Act. The entire proceedings including the hearing and directions have to be issued by the DRP within 9 months as contemplated under section 144C(12) of the Income-tax Act,

(*c*) Irrespective of whether the DRP concludes the proceedings and issues directions or not, within 9 months, the Assessing officer is to pass orders within the stipulated time,

(*d*) In matter involving transfer pricing, upon remand to DRP, the Assessing officer is to pass a denova draft order and the entire proceedings as in the original assessment, would have to be completed within 12 months, as the very purpose of extension is to ensure that orders are passed within the extended period, as otherwise the extension becomes meaningless.

(*e*) The outer time limit of 33 months in case of reference to TPO under Section 153, would not refer to draft order, but only to final order and hence, the entire proceedings would have to be concluded within the time limits prescribed,

(*f*) The non-obstante clause would not exclude the operation of Section 153 as a whole. It only implies that irrespective of availability of larger time to conclude the proceedings, final orders are to be passed within one month in line with the scheme of the Act,

(*g*) When no period of limitation is prescribed, orders are to be passed within a reasonable time, which in any case cannot be beyond 3 years. However, when the statute prescribes a particular period within which orders are to be passed, then such period, irrespective of whether it is short or long, shall be applicable.

28. With the above directions, all the writ appeals are dismissed. However, there will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

9. Thus, the Hon'ble Madras High Court has held that provisions of sec.144C and 153 are not mutually exclusive, but, are rather mutually inclusive. The period of limitation u/sec.153 is applicable for completing the assessment and sec.144C(13) is only in the nature of restricting the time period, within which, the Assessing Officer is required to pass the Final Assessment Order after the Directions of the DRP and not enlarging the limitation provided u/sec.153 of the Act.

10. Similar view has been taken by the Hon'ble Bombay High Court in the case of Shelf Drilling Ron Tappmeyer Ltd., vs., ACIT, International Taxation (supra) in Paras-23 to 34 as under :

23. No doubt, section 144C of the Act is a self contained code of assessment and time limits are inbuilt at each stage of the procedure contemplated. Section 144C envisions a special assessment, one which includes the determination of Arms Length Price (ALP) of international transactions engaged in by the assessee. The DRP was constituted bearing in mind the necessity for an expert body to look into intricate matters concerning valuation and transfer pricing and it is for this reason that specific timelines have been drawn within the framework of section 144C to ensure prompt and expeditious finalisation of this special assessment. The purpose is to fast-track a special type of assessment. That cannot be considered to mean that overall time limits prescribed have been given a go by in the process.

24. We find it difficult to accept the submissions of Mr. Suresh Kumar because it would in fact mean that, notwithstanding the twelve month period prescribed under section 153 (3) of the Act, where it says that an order of fresh assessment in pursuance of an order under section 254 of the Act may be made at any time before the expiry of twelve months from the end of the financial year in which order under section 254 of the Act is received by the Commissioner, would not apply to a case where section 144C of the Act is applicable. It would also mean that the time prescribed in section 153 (1) of the Act cannot apply where section 144C of the Act is applicable in the case of an eligible assessee. If Mr. Suresh Kumar was correct, then in our view, it would have been specifically so provided in section 153 of the Act. We would agree with Mr. Mistri that wherever the legislature intended extra time to be provided, it is expressly provided in section 153 of the Act. Sub-section (3) of section 153 of the Act also applies to fresh order under section 92 CA of the Act being passed in pursuance to an order under section 254 of the Act. Sub-section (4) of section 153 of the Act specifically provides that notwithstanding anything contained in sub-sections (1), (1-A), (2), (3) and (3-A) of the Act, where a reference under sub-section (1) of section 92 CA of the Act is made during the course of the proceeding for assessment or re-assessment, the period available for completion of assessment or re-assessment, as the case may be, under the said sub-sections (1), (1-A), (2), (3) and (3-A) of the Act shall be extended by twelve months.

25. Moreover, *Explanation*-1 below section 153 of the Act also provides for the periods which have to be excluded while computing the twelve months period mentioned in section 153 (3) of the Act. For example - it provides for exclusion of the period commencing from the date on which the Assessing Officer directs the assessee to get his accounts audited or inventory valued under sub-section (2-A) of section 142 of the Act or in a case where an application made before the Income-tax Settlement Commission is rejected by it or is not allowed to be proceeded with by it, the period commencing from the date on which an application was made before the Settlement Commission and ending with the date on which the order is received by the Principal Commissioner or Commissioner or where the period commencing from the date on which an application is made before the Authority for Advance Rulings or before the Board for Advance Rulings under sub-section 1 of section 245Q of the Act and ending with the date on which the Advance Ruling pronounced by it is received by the Commissioner or where reference for exchange for information is made by an authority competent under an agreement referred to in section 90 or section 90-A of the Act or where a reference for declaration of an arrangement to be an impermissible avoidance arrangement is received by the Principal Commissioner etc., shall be excluded. There is no mention anywhere about section 144C of the Act.

26. If we accept the submissions of Shri Suresh Kumar that when there is a remand as in this case, the AO is unfettered by limitation, it would run counter to the avowed object of provisions that were considered while framing the provisions of section 144C of the Act. Having set time limits every step of the way, it does not stand to reason that proceedings on remand to the AO may be done at leisure sans the imposition of any time limit at all.

27. Having considered the language of sections 144C and 153, we cannot accept that the provisions of section 153 are excluded to the operation of section 144C.

28. Mr. Mistri, therefore, is correct in his submissions that the time limit prescribed under section 153 of the Act would prevail over and above the assessment time limit prescribed under section 144C of the Act. This is because the Assessing Officer may follow the procedure prescribed under section 144C of the Act, if he deems fit necessary but then the entire procedure has to be commenced and concluded within the twelve months period provided under section 153 (3) of the Act. This is because, the procedure under section 144C(1) of the Act also has to be followed by the Assessing Officer only if he proposes to make any variation which is prejudicial to the interest of the eligible assessee. If the Assessing Officer did not wish to make any variation which is prejudicial to the interest of the eligible assessee, he need not go through the procedure prescribed under section 144C of the Act.

29. In our view, the assessment has to be concluded within twelve months as provided in section 153(3) of the Act when there has been remand to the AO by the ITAT under section 254 of the Act. Within this twelve months prescribed, the AO has to ensure that the entire procedure prescribed under section 144C is completed and pass a final assessment order. For this the AO has to be prompt in passing an order contemplated under section 144C(1) of the Act and not wait to be reminded like in this case and still take almost two years to start the process. Sub-section (13) of section 144C provides that an assessment officer shall, upon receipt of the directions, issued under sub-section (5), in conformity with the directions complete, notwithstanding anything to the contrary contained in section 153, the assessment without providing any further opportunity of being heard to the assessee, within one month from the end of the month in which such direction is received. What is contemplated under section 144C (13) is the passing of the final assessment order. Twelve months as provided under section 153(3) would start from the end of the financial year in which the Principal Commissioner received the order under section 254 from the ITAT. The assessing officer should have taken steps to pass the final order under sub-section (13) of section 144C within 12 months period.

30. The exclusion of applicability of section 153, in so far as *non-obstante* clause in sub-section (13) of section 144C is concerned, it is for limited purpose to ensure that dehors larger time available, an order based on the directions of the DRP has to be passed within 30 days from the end of the receipt of such directions. The section and sub-section have to be read as a whole with connected provisions to decipher the meaning and intentions.

31. We would also observe that a similar *non-obstante* clause is also used in section 144C(4) of the Act with the same limited purpose to imply, even though there might be a larger time limit under section 153, once the matter is remanded to AO by the ITAT under section 254, the process to pass final order under section 144C has to be taken immediately.

32. The object is to conclude the proceedings as expeditiously as possible. There is a limit prescribed under the statute for the AO and therefore, it is his duty to pass an order in time. After 30th September 2021, the AO will have no authority to pass any final assessment order in this Case.

33. We cannot accept the submissions of Shri Suresh Kumar that passing of draft assessment order before 30th September 2021 would suffice. We find support for this view in Roca Bathroom (SB) (*supra*) and Roca Bathroom (DB) (*supra*).

34. In the circumstances, since no final assessment order can be passed in the present case as the same is time barred, the Return of Income as filed by Petitioner be accepted. This would however, not preclude the Revenue from taking any other steps in accordance with law.

11. Therefore, following the Judgments of Hon'ble Madras High Court as well as Hon'ble Bombay High Court cited (surpa), we hold that the assessment order passed by the Assessing Officer on 18.10.2024 is barred by limitation and consequently, the same is liable to be quashed. We order accordingly.

12. Since the issue is pending adjudication before the Hon'ble Supreme Court in the case of ACIT-[International Taxation] vs., Shelf Drilling Ron Tappmeyer Ltd., [2025] 177 taxmann.com 262 (SC) and the first attempt to resolve the dispute by the Hon'ble Supreme Court is not successful due to divergent views of the Division Bench of the Hon'ble Supreme Court and, therefore, the matter is required to be resolved by the Larger Bench of the Hon'ble Supreme Court. Since the matter is yet to be resolved by the Hon'ble Supreme Court, therefore, we allow the parties to get this appeal revived if the decision of the Hon'ble Supreme Court on this issue necessitates modification of this order.

13. The Hon'ble jurisdictional High Court in the case of Kotha Kantaiah vs., Income Tax Officer in WP.No.344 of 2025 vide order dated 24.04.2025 while dealing with the issue of validity of the notice issued u/sec.148 issued by the Jurisdictional Assessing Officer [in short "JAO"] instead of Faceless Assessing Officer [in short "FAO"] as per the Faceless Assessment Scheme has quashed the notice issued u/sec.148 by the JAO and consequently, re-assessment order, but, granted the liberty to the parties to get the petition revived as per the outcome of the Judgment of the Hon'ble Supreme Court on the identical issue. The relevant part of the Judgment of Hon'ble Jurisdictional High Court of Telangana in the case of Kotha Kantaiah vs., Income Tax Officer (supra) in Paras-15 to 18 of the said judgement is as under :

15. What is worrying this Bench more is the fact that an endeavour is being made whole heartedly to ensure not to generate further litigation on issues which have been laid to rest by a large number of High Courts all of whom have taken a consistent stand that the action of the Income Tax Department being violative of the Finance Act, 2020 and Finance Act, 2021. Now, in order to protect the interest of the Revenue as also that of the assessee, it would be trite at this juncture, if we dispose of the writ petition with an observation/direction that the disposal of the instant writ petition in terms of the judgment rendered by this High Court in the case of ***Kankanala Ravindra Reddy*** (1 supra) shall however be subject to the outcome of the SLPs which were filed by the Income Tax Department and which is pending consideration before the Hon'ble Supreme Court.

16. In the given facts and circumstances, this Bench is of the considered opinion that unless and until we do not timely dispose of matters which are squarely covered by the decision of this Court and which stands fortified by the decisions of the various other High Courts on the very same issue, the pendency of this High Court would further be burdened which otherwise can be decided and disposed of as a covered matter.

17. So far as the interest of the Revenue is concerned, we are of the considered opinion that the interest of the Revenue has already been considered and protected, as has been observed in paragraphs

36, 37 and 38 of the order which, for ready reference, is reproduced hereunder:

> 36. For all the aforesaid reasons, the impugned notices issued and the proceedings drawn by the respondent-Department is neither tenable, nor sustainable. The notices so issued and the procedure adopted being *per se* illegal, deserves to be and are accordingly set aside/quashed. As a consequence, all the impugned orders getting quashed, the consequential orders passed by the respondent-Department pursuant to the notices issued under Section 147 and 148 would also get quashed and it is ordered accordingly. The reason we are quashing the consequential order is on the principles that when the initiation of the proceedings itself was procedurally wrong, the subsequent orders also gets nullified automatically.
>
> 37. The preliminary objection raised by the petitioner is sustained and all these writ petitions stands allowed on this very jurisdictional issue. Since the impugned notices and orders are getting quashed on the point of jurisdiction, we are not inclined to proceed further and decide the other issues raised by the petitioner which stands reserved to be raised and contended in an appropriate proceedings.
>
> 38. Since the Hon'ble Supreme Court had, in the case of Ashish Agarwal, supra, as a one-time measure exercising the powers under Article 142 of the Constitution of India, permitted the Revenue to proceed under the substituted provisions, and this Court allowing the petitions only on the procedural flaw, the right conferred on the Revenue would remain reserved to

proceed further if they so want from the stage of the order of the Supreme Court in the case of Ashish Agarwal, supra.

18. We would only further like to make observations that since we are inclined to dispose of the instant writ petition, conscious of the fact that the earlier order of this High Court in the case of ***Kanakala Ravindra Reddy*** (1 supra) is subjected to challenge before the Hon'ble Supreme Court in SLP No.3574 of 2024, preferred by the Income Tax Department, we make it clear that allowing of the instant writ petition is subject to outcome of the aforesaid SLP preferred by the Revenue against the decision of this High Court in the case of ***Kanakala Ravindra Reddy*** (1 supra). This, in other words, would mean that either of the parties, if they so want, may move an appropriate petition seeking revival of this writ petition in the light of the decision of the Hon'ble Supreme Court in the pending SLP on the very same issue.

*14. Accordingly, we dispose of this appeal on this legal issue and keep open the other issues raised by the assessee on the merits if the Hon'ble Supreme Court decides this issue otherwise.***"**

12. Accordingly, to maintain the rule of consistency, we follow the earlier decisions of this Tribunal in the case of Aveva Solutions India LLP, Hyderabad vs., ITO, Ward-8(1), Hyderabad (supra) and hold that assessment order dated 15.02.2022 passed by the Assessing Officer is barred by limitation and consequently, the same is liable to be quashed. We Order accordingly.

13. Since this issue is pending adjudication before the Hon'ble Supreme Court in case of **Shelf Drilling Ron Tappmeyer Ltd.,** (supra) and to be resolved by the Larger Bench of the Hon'ble Supreme Court, therefore, we allow the parties to get this appeal revived for adjudication of the other issues on merits, if the decision of the Hon'ble Supreme Court on this issue necessitates modification of this order. Accordingly, we dispose of this appeal on this legal issue and keep open other issues raised by the assessee on merits, in case the Hon'ble Supreme Court decide this issue otherwise.

ITA.No.481/Hyd./2022 – A.Y. 2018-2019 :

14. For the assessment year 2018-2019, the assessment order is passed on 27.07.2022 and, therefore, the learned DR has not taken the arguments of extension of limitation in view of Judgment of Hon'ble Supreme Court in the case of *suo motu* Extension of Limitation (supra). For the assessment year 2018-2019, the time limit was available with the Assessing Officer to complete the assessment up-to 30.09.2021 which is also the time limit as extended by the TOLA Notification and, therefore, for the assessment year 2018-2019, there is no extension of time by virtue of TOLA Notification. As per the provisions of sec.153 of the Act, the time limit was available up-to 30.09.2021. Since the Order is passed on 27.07.2022, therefore, the same is barred by limitation. Our findings on this issue for the assessment year 2017-2018 in the preceding paragraphs hereinabove, is applicable *mutatis mutandis* for the assessment year 2018-2019 as well. Accordingly, the assessment order is barred by limitation and liable to be quashed. We Order accordingly.

15. We dispose of this appeal on the legal issue and keep open the other issues raised by the assessee on merits if the identical legal issue is decided by the Hon'ble Supreme Court necessitates the modification of this order.

16. In the result, both the appeals of the Assessee are allowed. A copy of this common order be placed in the respective case files.

Order pronounced in the open Court on 26.11.2025.

[MADHUSUDAN SAWDIA] [VIJAY PAL RAO]
ACCOUNTANT MEMBER VICE PRESIDENT
Hyderabad, Dated 26th November, 2025
VBP

Copy to :

1.	Repal Renewables Private Limited, 9th Floor, My Home Twitza, Plot No.30/A, TSIIC Hyderabad Knowledge City, Raidurg, Hyderabad - 500 081.
2.	The DCIT, Circle-3(1), Hyderabad.
3.	The Disputes Resolution Panel-1, Kendriya Sadan, 4th Floor, C-Wing, BENGALURU – 560 034.
4.	The. Pr. CIT, Hyderabad.
5.	The DR, ITAT, "A" Bench, Hyderabad.
6.	Guard file.

BY ORDER,

//True copy//