अपीलीय अधिकरण, हैदराबाद पीठ

IN THE INCOME TAX APPELLATE TRIBUNAL

Hyderabad 'B' 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

आयकरअपीलसं./**I.T.A. No.1311/Hyd/2025**

(निर्धारणवर्ष/ **Assessment Year: 2014-15)**

Sanghi Textiles Private Limited, Hyderabad. PAN: AADCS0837P	*VS.*	Income Tax Officer, Ward-3(1), Hyderabad.
(अपीलार्थी/ Appellant)		**(प्रत्यर्थी/ Respondent)**

करदाताकाप्रतिनिधित्व/ Assessee Represented by	:	Shri P. Murali Mohan Rao, CA
राजस्वकाप्रतिनिधित्व/ Department Represented by	:	Dr. Narendra Kumar Naik, CIT-DR & Shri Waseem Ur Rehman, Sr. AR
सुनवाईसमाप्तहोनेकीतिथि/ Date of Conclusion of Hearing	:	03/12/2025
घोषणा की तारीख/ Date of Pronouncement	:	07/01/2026

ORDER

PER RAVISH SOOD, JM:

The present appeal filed by the assessee company is directed against the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, dated 30/06/2025, which in turn arises from the order passed by the Assessing Officer (for

short, “AO”) under section 147 r.w.s 144B of the Income Tax Act, 1961 (for short, “the Act”), dated 30/03/2022 for the Assessment Year (AY) 2013-14. The assessee company has assailed the impugned order passed by the CIT(A) on the following grounds of appeal before us:

> “1. The order of the Ld. CIT (A) u/s 250 of the Act dt. 30/06/2025 for the AY 2014-15 is erroneous both on facts and in law to the extent the order is prejudicial to the interests of the appellant.
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> 2. The Ld. CIT (A) erred in dismissing the appeal without considering the facts and circumstances of the case as also the settled position of law.
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> 3. The Ld. CIT(A) erred in upholding the order of assessment as passed by the Ld. AO u/s 147 r.w.s 144 of the Act without issuing a notice under section 143(2) of the Act, which is mandatory for initiating scrutiny proceedings.
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> 4. The LD. CIT(A) ought to have considered that the Ld. AO erred in rejecting the books of accounts of the appellant under section 145 of the Act, and thereafter making separate additions on specific items, which is untenable once the books have been rejected and income is estimated.
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> 5. The Ld. CIT (A) failed to consider the factual and legal position that the Ld. AO erred in making an addition of Rs. 25,63,372/-at 8 percent on gross receipts of Rs. 3,20,42,152/- that the same has been considered into accounts and that making addition without appreciating the facts of the case, which is incorrect.
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> 6. The ld. CIT(A) ought to have fairly considered that the Ld. AO has rejected the books of accounts and resorted to estimation of income, and that the AO could not legally and logically make separate disallowances or additions based on the same rejected books, as such action leads to double taxation and is contrary to the settled principles of law.
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> 7. The CIT(A) erred in fairly considering the fact and legal position that the Ld. AO ought to have appreciated that the estimation of income after rejection of books should have been final and comprehensive, covering all aspects of the income computation, and no other additions should be sustained thereafter and that the Ld. AO cannot adopt a self-contradictory stance unless there is an Independent and corroborative Evidence to do so.

8. The Ld. CIT(A) failed to considered that the Ld. AO erred in making an addition of Rs. 92.069/- towards interest income u/s 194A of the Act without appreciating the facts of the case and submissions made in the scrutiny proceedings, is incorrect and bad-in-law.

9. The Ld. CIT(A) failed to considered that the Ld. AO ought to appreciated the fact that assessee has received interest income of Rs. 92,069/-on bank deposits made and same are disclosed in the financial statements vide other income.

10. The Ld. CIT(A) failed to consider that the Ld. AO has erred in making an addition of Rs. 19,54,348/- towards time deposits without appreciating the fact that assessee has made an investment in Time Deposits with the receipts from business earned during the year under consideration.

11. The Ld. CIT(A) ought to considered that Ld. AO erred in rejecting the books of accounts without specifying any reason which is not correct and bad-in-law.

12. The Ld. CIT(A) erred in upholding that the Ld. AO disallowing the expenses 20 percent of total expenses claimed of Rs. 4,72,79,447/- on ad-hoc basis without pointing out any defects in the books of accounts maintained as same were allowable u/s 37(1) of the Act.

13. The Ld. CIT(A) ought to have considered the fact that return of income filed u/s 148 of the Act shall be considered as valid and ought to have appreciated the fact any claim made in return filed u/s 148 of the Act which is not claimed in return of income u/s 139(1) of the Act, is allowable.

14.The Ld. CIT(A) failed to considered that the Ld. AO erred in making the above additions to the income of the assessee without considering the loss made in the AY 2014-15 and brought forward losses.

15. Appellant may, add or alter or amend or modify or substitute or delete and/or rescind all or any of the grounds of appeal at any time before or at the time of hearing of the appeal."

2. Succinctly stated, the AO based on information that the assessee company during the subject year had carried out substantial financial transactions/receipt of income, viz. (i) receipt of payments towards contracts: Rs.3,20,42,152/-; (ii) interest income: Rs.92,069/-; and (iii)

time deposits with bank: Rs.19,54,348/-, but had not filed its return of income for the subject year, i.e., AY 2014-15, initiated proceedings under section 147 of the Act. Notice under section 148 of the Act, dated 27/03/2021, was issued to the assessee company. In compliance, the assessee company filed its return of income on 21/10/2021, declaring its income at Rs. NIL.

3. During the course of the assessment proceedings, the AO issued notice under section 142(1) of the Act, dated 22/11/2021, calling upon the assessee company to comply with the same on 06/12/2021, but the same was not acted upon by the latter. Thereafter, the AO issued notice under section 142(1) of the Act, dated 09/12/2021, seeking compliance of the same on 17/12/2021. In compliance, the assessee company furnished a part reply. Thereafter, the AO issued notice under section 142(1) of the Act, dated 28/12/2021, seeking compliance of the same on 04/01/2022. In compliance, the assessee company once again filed a part reply. Thereafter, the AO issued notice under section 142(1) of the Act, dated 07/02/2022, seeking compliance on 14/02/2022. In response, the assessee company filed an objection to the validity of the notice issued under section 148 of the Act. In response, the AO vide his letter, dated 23/03/2022, rebutted the objections filed by the assessee company to the notice issued by the AO under section 148 of the Act, dated 27/03/2021 and called upon it to furnish the reply to the remaining

queries on or before 25/03/2022. In reply, the assessee company filed its written submissions along with some documents and further sought a time of 15 days for furnishing the required information. The AO, after perusing the details/reply that was filed by the assessee company on 25/03/2022, observed that it had nothing more to say in the matter before him.

4. Coming to the merits of the case, the AO observed that the assessee, being a company, was mandatorily required to file its return of income for the subject year, had failed to do so and violated the provisions of section 139(1) of the Act. Accordingly, the AO, observing that the assessee company had not filed its return of income under section 139(1) of the Act, i.e., up to the “due date” of 31/10/2013, disallowed its claim for carry forward loss of Rs. 27,58,236/-.

5. The AO observed that the information available on record revealed that the assessee company had contractual receipts of Rs. 3,20,42,152/- on which tax was deducted at source (TDS) under section 194C of the Act. As the assessee company had failed to come forth with any details regarding the subject contractual receipts, therefore, the AO computed the income on the same @8% of the gross receipts of Rs. 3,20,42,152/-, which, thus, resulted to an addition of Rs. 25,63,372/-.

6. Also, the AO observed that the assessee company during the subject year was in receipt of interest income of Rs. 92,069/-, which was subjected to deduction of tax at source (TDS) under section 194A of the Act. As the assessee company had not filed its return of income for the subject year under section 139(1) of the Act, i.e., within the “due date” of 31/10/2013, the AO made an addition of the subject interest income in its hands.

7. The AO further observed that the assessee company, during the year under consideration, had invested in time deposits of Rs. 19,54,348/-. As the assessee company had failed to come forth with any explanation regarding the source of the subject investment, therefore, the AO added the same by treating it as its unexplained investment under section 69B of the Act.

8. Further, the AO observed that as the assessee company had failed to furnish the requisite details in respect of various expenses that it had claimed to have incurred during the subject year, therefore, its book results were not subject to verification and thus, not reliable. Accordingly, the AO, after rejecting the books of account of the assessee company under section 145A of the Act, disallowed on an ad hoc basis 20% of its claim of expenses of Rs. 4,72,79,447/- and worked out a disallowance of Rs. 94,55,889/- which was added to the returned income of the assessee company.

9. Thereafter, the AO vide his order passed under section 147 r.w.s 144B of the Act, dated 30/03/2022, after making the aforesaid additions/disallowances, determined the income of the assessee company at Rs. 1,40,65,678/-.

10. Aggrieved, the assessee company carried the matter in appeal before the CIT(A) but without success.

11. For the sake of clarity, the observations of the CIT(A) are culled out as under:

> "5. Discussion and Decision: The present appeal is directed against the reassessment order passed u/s 147 r.w.s. 144 of the Income-tax Act, 1961 ("the Act") dated 30.03.2022 by the Assessing Officer (AO), wherein total income was assessed at Rs. 1,40,65,678/- as against NIL income declared by the appellant. The additions broadly relate to:
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> (i) profit estimation on contractual receipts as per Form 26AS,
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> (ii) addition of interest income u/s 194A,
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> (iii) unexplained investments u/s 69B, and
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> (iv) ad-hoc disallowance of business expenses due to non-verification.
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> The appellant has raised several grounds disputing the validity of reopening of the case, rejection of books, and merits of each addition. The appellant has raised 30 grounds of appeal. For the sake of brevity, the grounds of appeal are grouped issue wise for discussion and decision. Upon careful perusal of the assessment order. submissions of the appellant, and the facts of the case, I proceed to adjudicate the appeal as under.
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> 5.1.1. The appellant contends that the reassessment proceedings are void ab initio as the AO lacked tangible material and formed no proper belief of income escapement. The appellant also challenges jurisdiction on technical grounds, including alleged non-furnishing of reasons and lack of approval under section 151.
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> 5.1.2. It is an admitted fact that the appellant had failed to file the return of income u/s 139(1), despite being a company, TDS credits under sections 194A and 194C aggregating over Rs. 3.2 crores and

time deposits of Rs. 19.54 lakhs were reflected in the 26AS statement, but remained unaccounted. The information clearly constitutes "tangible material" justifying reopening as held in the case of Raymond Woollen Mills Ltd. v. ITO [(1999) 236 ITR 34 (SC)) and ACIT v. Rajesh Jhaveri Stock Brokers Pvt. Ltd. [(2007) 291 ITR 500 (SC)]. Further, the approval under section 151 was duly obtained and the reasons for reopening were recorded, as confirmed in the assessment order. The reassessment was within the prescribed time and squarely falls within the framework of section 147, Therefore, the action of the AO in reopening the assessment is held to be valid and in accordance with law. Accordingly, grounds of appeal pertaining to this issue are dismissed and not allowed.

5.2. The appellant has challenged against the addition of Rs. 25,63,372/- on account of estimation of Income on Contractual Receipts. The AO made an addition of RS. 25,63,372/- by applying an 8% net profit rate on gross receipts of Rs.3,20,42,152/- reported in Form 26AS. The appellant argues that the receipts were already reflected in the books and audited financials, and the addition amounts to double taxation. However, during the assessment proceedings, the appellant failed to furnish verifiable evidence regarding the specific receipts or correlate Form 26AS figures with its books. The appellant did not produce any party-wise ledger, invoices. or confirmations to substantiate the nature and source of receipts. The AO, in absence of books being accepted, was justified in applying a reasonable rate of profit as per settled law under section 44AD-like principles. In the case of CIT v. Surinder Pal Anand [(2010) 192 Taxman 264 (P&H HC)], it was held that estimation at 8% on gross receipts is valid when books are not reliable. Likewise, in CIT v. Banwarilal Banshidhar [(1998) 229 ITR 229 (AII HC)], it was held that once estimation is made. it is a valid method of computation where books are unreliable. Therefore, the estimation made by the AO is justified and does not amount to double addition. The grounds of appeal pertaining to this issue are dismissed and not allowed.

5.3. The appellant has agitated against the addition on account of Interest Income of Rs. 92,069/- The AO added Rs. 92.069/- as interest income based on TDS under section 194A. The appellant claims this was already included in the return under "Other Income".

However, no documentary evidence was produced during the assessment to support this claim. The appellant neither furnished a detailed ledger nor offered reconciliation between the income shown and 26AS. In such circumstances, the AO is justified in making addition based on third-party information corroborated by TDS credits. Hence, the addition of Rs. 92,069/-is sustained.

5.4. The appellant has raised several grounds 5.4. The against the addition of Unexplained Investment u/s 69B at Rs.19,54,348/- The AO made an addition of Rs. 19,54,348/- as unexplained time deposits since no source was explained during the assessment proceedings. The appellant contends that these were from business proceeds and duly reflected in the books. However, no documentary evidence was

submitted to demonstrate the nexus between deposits and business income. The appellant failed to substantiate the cash flow, provide bank statements, or reconcile deposits with disclosed income. In absence of any verifiable explanation, the AO was justified in invoking section 698. The Hon'ble Delhi High Court in CIT v. Lubtec India Ltd. [(2009) 311 ITR 175 (Del)] has upheld additions under section 69B where assessee fails to explain investments with corroborative evidence. Thus, the addition of Rs. 19,54,348/- as unexplained investment is sustained and relevant grounds of appeal are dismissed and not allowed.

5.5. The appellant is agitated against the Rejection of Books of Account u/s 145(3) of the Act and Disallowance of Business Expenses of Rs. 94,55,889/-. The AO disallowed 20% of total expenses Rs. 4.72 crores due to non-furnishing of supporting details during assessment. The appellant argues that once income is estimated, no separate disallowance is permissible. However, the contention of the appellant is incorrect as only income from contract receipts was estimated; remaining business income and expenses remained unevaluated. The appellant also failed to respond to repeated notices u/s 142(1) seeking supporting documents for claimed expenses. Therefore books of account were rightly rejected under section 145(3) of the Act by the AO for the reason of non-verifiability. The disallowance is not arbitrary but a reasonable estimate in absence of records. The AO rightly exercised judgment based on the facts. The Hon'ble Supreme Court in CIT v. Calcutta Agency Ltd. [(1951) 19 ITR 191 (SC)] has held that the onus to prove expenditure lies with the assessee. Where no evidence is furnished, disallowance is permissible. Similarly, in CIT v. McMillan & Co. [(1958) 33 ITR 182 (SC)], it was held that estimation of disallowance is valid where accounts are not reliable. Hence, the rejection of books of account and the disallowance of Rs. 94,55,889/- are upheld and sustained. Accordingly. relevant grounds of appeal are dismissed and not allowed.

6. In result, the present appeal of the appellant is dismissed and not allowed."

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

13. We have heard the Learned Authorised 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 them to drive home their respective contentions.

14. Shri P. Murali Mohan Rao, the Learned Authorized Representative (for short, “Ld. AR”) for the assessee company, at the threshold of hearing of the appeal, submitted that the AO had grossly erred in law and facts of the case in assuming jurisdiction and framing the assessment vide the impugned order passed by him under section 147 r.w.s 144B of the Act, dated 30/03/2022. Elaborating on his contention, the Ld. AR submitted that though the assessee company, in response to notice under section 148 of the Act, dated 27/03/2021, had filed its return of income for the subject year on 21/10/2021, declaring its income at Rs. NIL, but the AO had thereafter proceeded with and framed the impugned assessment without issuing any notice under section 143(2) of the Act. The Ld. AR to fortify his contention had drawn our attention to the order passed by the AO under section 147 r.w.s 144B of the Act, dated 30/03/2022. The Ld. AR submitted that as the AO, in the absence of a valid assumption of jurisdiction, had framed the assessment, therefore, the same cannot be sustained and is liable to be struck down on the said ground itself. The Ld. AR to buttress his contention, had drawn support from the judgments of the Hon’ble Supreme Court in the case of ACIT vs. Hotel Blue Moon (2010) 321 ITR 362 (SC) and CIT vs. Laxman Das Khandelwal (2019) 417 ITR 325

(SC). The Ld. AR submitted that the Hon'ble Apex Court in both of its orders had held that issuance of notice under section 143(2) of the Act is mandatory for valid assumption of jurisdiction by the AO to frame the assessment.

15. Dr. Narendra Kumar Naik, Ld. CIT-DR, on being confronted by the Ld. AR's contention that no notice under section 143(2) of the Act was issued by the AO, fairly admitted the said factual position. However, the Ld. CIT-DR submitted that no statutory obligation was cast upon the AO to issue notice under section 143(2) of the Act for framing the assessment pursuant to the notice issued under section 148 of the Act, dated 27/03/2021. The Ld. CIT-DR had come forth with two fold contentions in support of his aforesaid claim, viz. (i) that the assessee company had failed to file the return of income in compliance to notice under section 148 of the Act, dated 27/03/2021 within the prescribed time period as was allowed by the said notice; and (ii) pursuant to the notice issued under section 148 of he Act, dated 27/03/2021, no obligation was cast upon the AO to issue notice under section 143(2) of the Act for framing the assessment vide order passed by him under section 147 r.w.s 144B of the Act, dated 30/03/2022. Elaborating on his contention, the Ld. DR submitted that as per section 143(2) of the Act (as was available on the statute at the relevant point of time), the AO was obligated to issue notice under section 143(2) of the Act, in a case

where the return of income had been furnished by the assessee under section 139 of the Act, or in response to a notice under sub-section (1) of section 142 of the Act. The Ld. AR submitted that as the assessment in the present case was framed under section 147 r.w.s 144B of the Act, dated 30/03/2022, therefore, no statutory obligation was cast upon the AO to issue a notice under section 143(2) of the Act as a precondition for framing the assessment. The Ld. CIT-DR to buttress his contention had relied upon the judgment of the Hon'ble High Court of Madras in the case of B. Kubendran vs. DCIT (2021) 126 taxmann.com 107 (Madras). The Ld. CIT-DR submitted that the Hon'ble High Court in its order had observed that as the judgment of the Hon'ble Supreme Court in ACIT vs. Hotel Blue Moon (supra) was rendered in context of the erstwhile Chapter-XIVB of the Act, which regulated the framing of a "block assessment", therefore, the said judicial pronouncement would not come to the aid of the petitioner before them where the issue involved was as to whether or not the issuance of a notice under section 143(2) of the Act was mandatory in context of an assessment framed under section 153A/153C of the Act. The Ld. CIT-DR submitted that section 153A(1)(a) of the Act, inter alia, provided that *the provisions of the Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139 of the Act*. Carrying his contention further, the Ld. AR submitted that section 148 of the Act (as was available on the statute at the relevant point of time) provided for

the same terms, i.e., ….*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 of the Act*. The Ld. CIT-DR submitted that as the returns of income filed under the aforesaid statutory provisions, i.e., under section 153A of the Act and under section 148 of the Act were to be similarly construed, i.e., as if such return was required to be furnished under section 139 of the Act, therefore, the judgment of the Hon'ble High Court of Madras in the case of B. Kubendran vs. DCIT (supra), which though was rendered in context of a return of income filed by the assessee under section 153A of the Act was to be similarly adopted and applied for the purpose of a return of income filed in response to notice under section 148 of the Act, i.e., to what extent the same was to be treated as a return of income filed under section 139 of the Act. To sum up, the Ld. CIT-DR submitted that as no obligation was cast upon the AO to issue a notice under section 143(2) of the Act in response to the return of income filed by an assessee under section 153A of the Act, therefore, based on the *pari materia* language used in section 148 of the Act, *i.e. to the extent the return of income filed in response to the notice issued under the said section was to be considered as return of income under section 139 of the Act*, no obligation was cast upon the AO to issue notice under section 143(2) of the Act for framing the assessment in response to the return of income filed in response to the notice issued under section 148 of the Act, dated

27/03/2021. Apart from that, the Ld. CIT-DR also pressed into service the judgment of the Hon'ble High Court of Delhi in the case of Ashok Chadda vs. ITO (2011) 37 ITR 399 (Delhi), wherein it was held that the issue of notice under section 143(2) is not mandatory for finalisation of an assessment under section 153A of the Act. The Ld. CIT-DR based on his aforesaid contentions submitted that based on the aforesaid judicial pronouncements the AO in the present case was not obligated to issue any notice under section 143(2) of the Act pursuant to the return of income filed by the assessee company in response to notice under section 148 of the Act, dated 27/03/2021, and, thus, had validly assumed jurisdiction and framed the assessment vide his order under section 147 r.w.s 144B of the Act, dated 30/03/2022.

16. Shri P. Murali Mohan Rao, CA, the Learned Authorised Representative (for short, "Ld. AR") for the assessee company, vehemently rebutted the aforesaid contentions of the revenue. The Ld. AR submitted that the issuance of a notice under section 143(2) of the Act is a *sine qua non* for valid assumption of jurisdiction for framing an assessment in a case where the same is initiated on the basis of a notice issued under section 148 of the Act. The Ld. AR to support his contention had relied on the judgment of the Hon'ble High Court of Delhi in the case of Shaily Juneja vs. ACIT (2022) 476 ITR 665 (Delhi) and that of the Hon'ble High Court of Karnataka in the case of Principal

Commissioner of Income Tax vs. Cherian Abraham (2022) 444 ITR 420 (Karnataka). Apart from that, the Ld. AR had relied on the order of the ITAT (Special Bench), Delhi, in the case of Raj Kumar Chawla vs. ITO (2005) 1 SOT 934 (Delhi) (SB). The Ld. AR submitted that as the framing of the assessment under section 147 r.w.s 144B of the Act, dated 30/03/2022, presupposes the issuance of notice under section 143(2) of the Act, which in the present case had not been done, therefore, the assessment order so passed cannot be sustained and is liable to be knocked down.

17. We have thoughtfully considered the contentions advanced by the Learned Authorized Representatives of both parties in the backdrop of the orders of the authorities below.

18. As observed herein above the controversy involved in the present appeal is double facet, viz., (i) that as to whether or not a return of income filed in response to the notice issued by the AO under section 148 of the Act, dated 27/03/2021 after the lapse of the prescribed time period is to be construed as a return of income filed by the assessee?; and (ii) that as to whether or not pursuant to the return of income filed by an assessee in response to notice under section 148 of the Act the issuance of notice under section 143(2) of the Act by the AO is mandatory?.

19. Apropos the first issue, i.e., as to whether or not the return of income filed by an assessee beyond the prescribed time period allowed vide the notice under section 148 of the Act is to be construed as a return of income, we find that the said issue had been answered by the **Hon'ble High Court of Kerala** in the case of **Chirakkal Service Co-operative Bank Ltd. v. CIT (2016) 384 ITR 490 (Kerala).** The indulgence of the Hon'ble High Court was, *inter alia,* sought for adjudicating the following substantial question of law.

> "Whether the return filed by the assessee beyond the period stipulated u/s 139(1)/139(4) or Section 142(1)/148 can be held as non-est in the eyes of law and has invalidated for the purpose of deciding exemption u/s 80P of the Income Tax Act, 1961 ?"

The Hon'ble High Court answered the aforesaid issue, and, held, that the "return of income" filed by the assessee beyond the period stipulated under Section 139(1) or Section 139(4) or Section 142(1) or Section 148 can also be accepted and acted upon provided further proceedings in relation to such assessment are pending in the statutory hierarchy of adjudication in terms of the provisions of the Income-tax Act. As in the present case before us, the "return of income" filed by the assessee company in compliance to the notice issued under Section 148 of the Act, dated 27.03.2021 was filed on 21.10.2021, i.e during the pendency of the assessment proceedings which had thereafter culminated vide order passed under Section 147 r.w.s 144B of the Act, dated 30/03/2022, therefore, we are of the firm conviction that there was

no justification for the A.O. to have held the said “return of income” as invalid and non-est in the eyes of law. Also, support is drawn from the judgment of the **Hon'ble High Court of Patna** in the case of **CIT Vs. Nagendra Prasad, (2023) 156 Taxmann.com 191 (Patna).** The Hon'ble High Court, had observed that where the notice was issued by the A.O. u/s 148 requiring the assessee to file his return of income within thirty days but the said return was filed after eight and a half months, since the return was filed by assessee in response to the said notice, though delayed, there should have been a notice issued under Section 143(2) as the requirement to issue notice could not be dispensed with. Accordingly, based on our aforesaid observations, we are of the view that the “return of income” filed by the assessee company on 21.10.2021 i.e., in response to the notice u/s. 148 of the Act dated 27.03.2021, though delayed, did not cease to be a “return of income” in the eyes of the law.

20. We shall now deal with the core issue involved in the present appeal, i.e., whether the AO, in response to the return of income filed by the assessee company for the subject year, i.e., AY 2014-15, on 21/10/2021, in compliance to the notice issued under section 148 of the Act, before proceeding with and framing the impugned assessment was statutorily obligated to issue a notice under Section 143(2) of the Act. We find that section 143(2) of the Act contemplates that where the

return of income has been furnished under section 139 of the Act, or in response to a notice under sub-section (1) of section 142, the AO or the prescribed income-tax authority, as the case may be, if, considers it necessary or expedient to ensure that the assessee has not understated the income or has not computed excessive loss or has not under paid the tax in any manner, shall serve on the assessee a notice requiring him, on a date to be specified therein, either to attend office of the Assessing Officer or to produce, or cause to be produced before the Assessing Officer any evidence, which the assessee may rely in support of the return of income. Although, at the first blush it appeared that issuance of the notice under section 143(2) of the Act is restricted only in a case where the return of income is filed by the assessee under section 139 of the Act, or in response to a notice under subsection (1) of section 142, and, thus, cannot be stretched to a case where the return of income is filed in response to a notice under section 148 of the Act, but we stand corrected on our aforesaid view. We say so, for the reason that section 148 of the Act (as was available on the statute at the relevant point of time) contemplated that the provisions of the Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139 of the Act. Accordingly, a return of income filed in response to notice under section 148 of the Act is to be treated as a return of income required to be furnished under section 139 of the Act. We thus, are of the view that as the return of income filed in

response to the notice under section 148 of the Act is to be construed as a return of income filed under section 139 of the Act with all the provisions of the Act to be applied in the similar manner as it would apply to a return of income filed under section 139 of the Act, therefore, the AO to ensure that the assessee had not under stated the income disclosed by him in the return of income filed in response to notice under section 148 of the Act remains under a statutory obligation to issue a notice under section 143(2) of the Act, i.e., in a similar manner as if he would have done in response to a return of income furnished under section 139 or under section 142(1) of the Act.

21. Although the Ld. CIT-DR had tried to impress upon us that for framing of assessment under section 148 of the Act, there is no obligation cast upon the AO to issue a notice under section 143(2) of the Act, but we are unable to concur with the same. We say so, for two reasons, viz., (i) as observed by us herein above, the return of income filed by the assessee in response to notice under section 148 of the Act is to be construed as if it is a return of income filed under section 139 of the Act; and (ii) that section 148 of the Act though provides for a notice to be issued to the assessee calling upon him to file his return of income, but the machinery for framing of the assessment is not provided in the said section and for the said limited purpose the return of income so filed by the assessee is to be construed as a return of income filed

under section 139 of the Act, and, thus, for framing of the assessment pursuant to the return of income filed by the assessee in response to the notice under section 148 of the Act notice under section 143(2) of the Act is mandatorily required to be issued.

22. We find that the Ld. CIT-DR had relied upon the judgment of the Hon'ble High Court of Madras in the case of B. Kubendran vs. DCIT (supra) and had emphasized upon the fact that though the same was rendered on the issue as to whether or not a notice under section 143(2) of the Act was mandatory in the context of an assessment under section 153A/153C of the Act, but the same is to be similarly applied with all the force on the same terms for framing of an assessment pursuant to the return of income filed by an assessee in response to the notice issued under section 148 of the Act. The Ld. CIT-DR, to drive home his contention, had vehemently emphasized that section 153A(1)(a) of the Act contemplates that 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. The Ld. AR submitted that the same language has been employed by the legislature in section 148 of the Act. Elaborating further on his contention, the Ld. AR had tried to impress upon us that the view taken by the Hon'ble High Court of Madras in the case of B. Kubendran vs. DCIT (supra), wherein it was held that for framing an assessment under section 153A, the issuance of notice under section

143(2) of the Act is not mandatory will equally apply with the same force for framing of an assessment on a return of income filed by an assessee in response to notice issued under section 148 of the Act.

23. We have given thoughtful consideration to the aforesaid contentions of the Ld. CIT-DR, which at the threshold of hearing appeared to be very appealing, but, are unable to persuade ourselves to subscribe to the same. We say so, for the reason that as observed by us at length herein above, section 148 of the Act can though facilitate calling upon the assessee to file his return of income in response thereto, but does not take within its fold the machinery and the procedure for framing of the assessment for which the legislature in all is wisdom had specifically provided that the return of income filed in response to notice under section 148 of the Act is to be treated as a return of income under section 139 of the Act, which, thus, would entail issuance of a notice under section 143(2) of the Act for framing of the assessment in the hands of the assessee.

24. Our aforesaid view that a notice under section 143(2) is mandatorily required to be issue where the assessee has filed a return of income in response to notice under section 148 of the Act is supported by the judgment of the **Hon'ble High Court Allahabad** in the case of **Commissioner of Income Tax (CIT) v. Rajeev Sharma (2011) 336 ITR 678 (All).** It was observed that, where the return of income is

filed by the assessee in response to notice under section 148 of the Act, the AO, before proceeding to decide the controversy with regard to the escaped assessment, is mandatorily required to issue notice under section 143(2) of the Act. Also, a similar view had been taken by the **Hon'ble High Court of Madras** in the case of **CIT v. M. Chellappan (2006) 281 ITR 444 (Madras)**. The Hon'ble High Court had observed that where the assessee had filed a return of income in response to notice under section 148 of the Act, but no notice under section 143(2) was issued after filing of the said return of income, then, the same is a violation of the mandatory provisions of law, and therefore, the re-assessment order passed under section 147 of the Act was a nullity and was to be quashed. Also, we find that the **Hon'ble High Court of Rajasthan** in the case of **PCIT vs. Kamala Devi Sharma, ITA No. 197/2018, dated 10/07/2018**, had observed that the issue of notice under section 143(2) of the Act in reassessment proceedings, prior to finalizing reassessment order cannot be condoned by referring to section 292BB of the Act and was fatal to the order of the reassessment. Also, we find that the **Hon'ble High Court of Madras** in the case of **Amec Foster Wheeler Iberia SLU-India Project Office vs DCIT** (**2023) 148 taxmann.com 124 (Madras)** has held that where the AO did not issue notice under section 143(2) of the Act upon the assessee, then initiation of reassessment proceedings, order rejecting the assessee's objection against assumption of jurisdiction for reopening and also

reference to the Transfer Pricing Officer (TPO) were to be quashed. We further find that the **Hon'ble High Court of Punjab & Haryana** in the case of **CIT vs. Nagendra Prasad (2013) 156 Taxmann.com 19 (Punjab & Haryana)** had observed that where the notice was issued by AO under section 148 of the Act requiring the assessee to file a return within 30 days, but the said return was filed after 8½ months, since return of income was filed by the assessee in response to the notice under section 148 of the Act, though delayed, there should have been a notice issued under section 143(2) as the requirement to issue notice cannot be dispensed with. Further, the **Hon'ble High Court of Delhi** in the case of **PCIT v. S.G. Portfolio Pvt. Ltd. (2023) 454 ITR 761 (Delhi)** had, inter alia, held that where the assessee company had filed the return income in response to notice under section 148 of the Act, the AO was required to issue notice under section 143(2) of the Act for framing the assessment. Also, the **Hon'ble High Court of Madras** in the case of **Sapthagiri Finance & Investments vs. ITO (2012) 25 taxmann.com 341 (Madras)** had, inter alia, held that where the AO found that there was a problem in the return of income filed by the assessee under section 148 of the Act, which required an explanation, then he ought to have followed up by issuing notice under section 143(2) of the Act. Also, we find that the **Hon'ble High Court of Delhi** in the case of **PCIT v. Dart Infrabuild Pvt. Ltd. (2024) 460 ITR 532 (Delhi)(HC)** had observed that the issuance of notice under section 143(2) of the Act is mandatory

for framing of an assessment. Also, the **Hon'ble High Court of Allahabad** in the case of **CIT vs. Salarpur Cold Storage**, **[2015] 228 Taxman 48 (Allahabad)** after relying upon the judgment of the **Hon'ble Supreme Court** in the case of **ACIT vs. Hotel Blue Moon (2010) 321 ITR 362 (SC)**, held that the requirement of issuance of a notice under section 143(2) is mandatory and cannot be brought within the meaning of a procedural irregularity. Apart from that, we find that the **"Special Bench"** of the **ITAT, Delhi** in the case of **Raj Kumar Chawla vs. ITO (2005) 1 SOT 934 (Delhi) (SB),** had held that return of income filed pursuant to notice under section 148 of the Act must assume and treated to be a return of income filed under section 139 of the Act and the assessment must thereafter be made under section 143 or 144 of the Act after complying with the mandatory provisions. Also, it was observed that pursuant to the return of income filed by the assessee in response to notice under section 148 of the Act, it is incumbent upon the assessing authority to issue notice under section 143(2) of the Act within the prescribed time period.

25. Considering the aforesaid host of judicial pronouncements, wherein it has been held that pursuant to a return of income filed by the assessee in response to notice issued under section 148 of the Act, it is incumbent on the part of the AO to issue notice under section 143(2) of the Act for framing the assessment, we respectfully follow the same.

26. Before parting, we may herein observe that though the Ld. CIT-DR in order to buttress his claim that for framing of an assessment pursuant to the return of income filed by an assessee in response to notice under section 148 of the Act, no obligation is cast upon the AO to issue a notice under section 143(2) of the Act, had relied upon two judicial pronouncements, viz., (i) B. Kubendran vs. DCIT (2021) 126 taxmann.com 107 (Madras); and (ii) Ashok Chadda vs. ITO (2011) 37 ITR 399 (Delhi), but considering the fact that there are judgments of the non-jurisdictional High Courts taking a view to the contrary, i.e., the issue of notice under section 143(2) of the Act is mandatory for framing of an assessment based on the return of income filed by the assessee in response to notice issued under section 148 of the Act, we being guided by the judgment of the **Hon'ble Supreme Court** in the case of **CIT v. Vegetable Products Ltd. [1973] 88 ITR 192 (SC),** wherein it is held that If two reasonable constructions of a taxing provision are possible, that construction which favours the assessee must be adopted, respectfully follow the latter view .

27. We, thus, in terms of our aforesaid observations are of the considered view that pursuant to the notice issued by the AO under section 148 of the Act, dated 27/03/2021, though the assessee company had filed its return of income in response thereto on 21/10/2021 declaring NIL income, but as the AO without issuing any notice under

section 143(2) of the Act had proceeded with and framed the impugned assessment vide his order under section 147 r.w.s 144B of the Act, dated 30/03/2022, therefore, he had grossly erred in law and facts of the case in assuming jurisdiction and framing the impugned assessment, which, thus cannot be sustained and is liable to be struck down for want of valid assumption of jurisdiction on his part.

28. As we have quashed the assessment for want of a valid assumption of jurisdiction by the AO, we refrain from adverting to and adjudicating the other grounds based on which the impugned assessment order has been assailed before us, which, thus, are left open.

29. Resultantly, the appeal filed by the assessee company is allowed in terms of our aforesaid observations.

Order pronounced in the open court on 07th January, 2026.

Sd/- **(मधुसूदन सावडिया)** **(MADHUSUDAN SAWDIA)** **लेखासदस्य/ACCOUNTANT MEMBER**	**Sd/-** **(रवीश सूद)** **(RAVISH SOOD)** **न्यायिकसदस्य/JUDICIAL MEMBER**

Hyderabad, dated: 07/01/2026.
***OKK/sps*

आदेशकीप्रतिलिपिअग्रेषित/ **Copy of the order forwarded to:-**

1.	निर्धारिती/The Assessee	:	Sanghi Textiles Private Limited, C/o. P. Murali and Co., Chartered Accountants, 6-3-655/2/3, Somajiguda, Hyderabad, Telangana-500082.
2.	राजस्व/ The Revenue	:	Income Tax Officer, Ward-3(1), O/o. ITO, Ward-3(1), Hyderabad, Telangana.
3.	The Principal Commissioner of Income Tax, Hyderabad.		
4.	विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण /DR,ITAT, Hyderabad.		
5.	The Commissioner of Income Tax		
6.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad.