

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

श्री विजय पाल राव, उपाध्यक्ष एवं श्री मंजुनाथ जी, लेखा सदस्य के समक्ष ।

Before Shri Vijay Pal Rao, Vice-President
A N D
Shri Manjunatha G. Accountant Member

आ.अपी.सं / **ITA Nos.1566 and 1571/Hyd/2025**
(निर्धारण वर्ष/Assessment Years: 2020-21 and 2021-22)

M/s. EXEL Rubber Private Ltd Hyderabad PAN:AAACE4495J (Appellant)	Vs.	Dy.CIT Central Circle 1 (2) Hyderabad (Respondent)
निर्धारिती द्वारा/Assessee by:	Shri M.V. Prasad, CA	
राजस्व द्वारा/Revenue by:	Dr. Narendra Kumar Naik, CIT (DR)	
सुनवाई की तारीख/Date of hearing:	20/01/2026	
घोषणा की तारीख/Pronouncement:	18/02/2026	

आदेश/ORDER

Per MANJUNATHA, G. A.M.

These two appeals filed by the assessee are directed against the separate orders passed by the Learned Commissioner of Income Tax (Appeals)-11, Hyderabad, both dated 14/07/2025 for the A.Ys 2020-21, 2021-22 and 2022-23 respectively. Since common issues are involved in these two appeals, for the sake of convenience, these were heard together and are being disposed of by this common consolidated order.

ITA No.1566/Hyd/2025 A.Y 2020-21

2. The assessee has raised the following grounds of appeal:

“1. On the facts and circumstance of the case, Learned CIT(A) erred in passing the order both on law and facts.

2. On the facts and circumstance of the case, the Learned CIT(A) is not justified in dismissing the ground that the issue of notice U/s 148 by the Assessing Officer is without Jurisdiction.

3. On the facts and circumstance of the case, the Learned CIT(A) is not justified in dismissing the ground that issue of notice U/s 148 by the Assessing Officer is bad in law as the Assessing Officer has not fulfilled the prescribed conditions laid down under Section 148 and consequently the Assessment is void-abinitio.

4. On the facts and circumstance of the case, the learned CIT(A) is not justified in dismissing the ground that ‘the addition of Rs.62,16,740/- made by the Assessing Officer and further there is no corroborative evidence to prove that expenditure is bogus.

5. Any other legal and factual ground or grounds that may be urged at the time of hearing of the appeal.”

3. The brief facts of the case are that the assessee company filed the return of income for the A.Y 2020-21 on 12.02.2021, admitting total Income of Rs.103,29,39,000/-. The case was selected for scrutiny and assessment u/s. 143(3) r.w.s. 144B of the Act was completed on 23.09.2022 accepting the returned income. A Search and Seizure operation u/s.132 of the I.T. Act was carried out on 04.01.2023 in M/s Exel Rubber Group of entities. As a part of the search, the case of the assessee was covered u/s 132 of the I.T. Act. A search & seizure operation under section 132 of the Act, was carried on 4/1/2023 in Exel Group of companies and as a part of search, the case of the assessee was also covered under section 132 of the Act.

Simultaneous search proceedings were also conducted in the residential premises of Shri Ramesh Kumar Sanaka, Sr. Accounts Manager who looks after the financial and accounting matters of Exel Group of companies. During the course of search, in the residential premises of Shri Ramesh Kumar Sanaka, Sr. Accounts Manager, certain loose sheets, promissory notes and excel sheets and a DELL Laptop were found and seized. On verification of the laptop, it was found that there was a software called FOCUS 5.5 software loaded in the laptop and some excel workbook containing the details of several hundreds of transactions representing receipts and payments in cash were found and recorded for several financial years. The incriminating material found during the course of search were confronted to Shri Ramesh Kumar Sanaka, Sr. Accounts Manager and a statement under section 132(4) of the Act has been recorded. In his statement, of Shri Ramesh Kumar Sanaka, Sr. Accounts Manager explained that the transactions recorded in the FOCUS 5.5 software are unaccounted receipts generated from the sale of scrap, scrap intermediate mixing products, scrap finished products i.e. faulty tubes/bladders etc., and scrap generated in packaging materials. This software also contains the expenditure in cash for all the 3 companies put together for the purpose of business. The above software also contains details of loans, repaid back and some contra entries etc. Shri G Raghunath Reddy, M.D. of Exel Rubber Ltd and the Main Promoter of the group in his statement recorded on 07/01/2023, during the course of search proceedings confirmed in principle what has been stated by Shri Ramesh

Kumar Sanaka, Sr. Accounts Manager in his statement recorded i.e. maintenance of cash vouchers, receipts, slips pertaining to the unaccounted cash transactions of the group and the same were recorded in the FOCUS 5.5 software. Based on the unaccounted transactions recorded in the laptop and more particularly FOCUS 5.5 software, Shri G. Raghunath Reddy, MD of the group admitted unaccounted income of Rs.107.63 crores for the 3 companies put together for all assessment years. Out of such unaccounted income, an amount of Rs 39.25 crores pertains to the assessee company for all the A.Ys.

4. The case was selected for scrutiny and during the course of assessment proceedings, the A.O on the basis of incriminating material found during the course of search coupled with the statement of Shri Ramesh Kumar Sanaka, Sr. Accounts Manager and Shri G Raghunath Reddy, MD of the company called upon the assessee to explain as to why the addition should not be made in respect of unaccounted income generated from the sale of scrap etc., and admitted during the course of search. In response, the assessee has submitted detailed explanation along with reconciliation of the incriminating material found during the course of search and submitted revised workings with reference to the entries contained in FOCUS 5.5 software. The A.O after considering the relevant submissions of the assessee and also taking note of admission of undisclosed income during the course of search, has made addition of Rs.62,16,740/-towards adjustment purchase transactions.

5. Aggrieved by the assessment order, the assessee preferred an appeal before the Ld. CIT (A). During the course of appellate proceedings, the assessee company challenged the assessment order passed by the A.O on the legal ground in light of provisions of section 148 of the Act and submitted that the assessment order passed by the A.O without applying the conditions laid out under section 148 of the Act is bad in law and liable to be quashed. The assessee also challenged the additions made by the A.O towards adjustment purchase transactions. The Ld. CIT (A) rejected the legal ground taken by the assessee challenging the validity of assessment proceedings and adjudicated the issues raised in appeal on merits and dismissed the appeal filed by the assessee.

6. Aggrieved by the order of the Ld. CIT (A), the assessee is now, in appeal before the Tribunal.

7. The learned Counsel for the assessee, Shri M.V. Prasad, C.A referring to ground No.3 of the assessee submitted that the Ld. CIT (A) is not justified in dismissing the ground taken by the assessee on the issue of validity of assessment order passed by the A.O in light of provisions of section 148 of the Act, without fulfilling the prescribed conditions and consequently, the assessment order passed by the A.O is void ab initio. The learned Counsel for the assessee further submitted that the additions made by the A.O is based on the material found in the residential premise of Shri Ramesh Kumar Sanaka, Sr. Accounts Manager and the Laptop found in the residential premises of the Shri

Ramesh Kumar Sanaka was seized and the data in the Laptop was downloaded to the Pen Drive which was also seized as Annexure A/RKS/RES/01. This fact was also recorded in the statement obtained from Shri. Ramesh Kumar Sanaka on 06/01/2023 vide question No. 58 to 61. This fact is also further confirmed by Shri. Ramesh Kumar Sanaka in a statement recorded, where it has been stated that the cash generated from the business activities are finally entered in FOCUS 5.5 software in the laptop. The printout of the data is downloaded from the FOCUS 5.5 software and the data downloaded from the laptop was seized in the premises of Shri Ramesh Kumar Sanaka, Sr. Accounts Manager by drawing certificate under section 65B of the Indian Evidence Act, 1872 on 05/01/2023. This fact was also confirmed by the A.O in the assessment order vide para no.7.12. But in the assessment order vide para no.7.17, the A.O has mentioned that the data of FOCUS 5.5 software which was seized as Annexure – A/Exg/CO/LS/07. This annexure is nothing, but the printout taken from the FOCUS 5.5 software on the date of search proceedings. However, the A.O has not made any addition on the basis of this annexure. Therefore, it is necessary to understand the notice issued by the A.O under section 148 of the Act for acquiring jurisdiction as per section 148 of the Act. The AO recorded reasons for reopening of assessment by invoking clause (i) of explanation (2) whereas in the present case clause (iii) or (iv) of Explanation (2) is applicable. Further, as per clause (iii) of Explanation 2, the A.O is satisfied, with prior approval of the Pr. CIT that any books of account or documents seized or

requisitioned under section 132 or section 132A of the Act in the case of any other person on or after 1/4/2021 pertains or belongs to or any information contained thereon relate to the assessee, then the A.O must obtain approval from the Pr. CIT under clause (iii) or (iv) of Explanation (2) of section 148 of the Act for recording reasons. Further, the satisfaction recorded by the A.O should be forwarded to the specified authority for obtaining sanctions as per provisions of section 151 of the I.T. Act. Although the law is very clear in so far as the procedure for issue of notice under section 148 of the Act, but in the present case no such satisfaction has been recorded and no prior approval has been obtained by the A.O. Therefore, the notice issued by the A.O under section 148 is bad in law and the entire assessment proceedings becomes void ab initio.

8. The learned Counsel for the assessee further referring to the reasons recorded by the A.O submitted that, the A.O invoked explanation (2) clause (i) of section 148 of the Act on the presumption that once a search is initiated under section 132 of the Act on or after the 1st day of April, 2021, in the case of the assessee, the A.O shall be deemed to have the information which suggests that the income chargeable to tax has escaped the assessment in the case of the assessee. However, Exp. (2) provides only a limited relaxation and the 1st proviso to section 148 of the Act negated the condition that the A.O with the rider that the information which suggests that the income chargeable to tax has escaped the assessment for the relevant A.Y. Therefore, the correct

interpretation can be that notice under section 148 cannot be issued automatically to the searched person and the A.O needs to apply his mind and while seeking approval under section 151 of the Act from the specified authority, demonstrate that the information obtained/discovered during the search suggest that income has escaped, assessment under Explanation (2) is for the relevant A.Y for which notice under section 148 of the Act is issued. In the present case, the A.O without demonstrating as to how the seized material found during the course of search suggest income escaped the assessment for the relevant Asst. Years has simply issued notice under section 148 of the Act on the basis of reasons recorded for reopening of the assessment without there being an iota of discussion in the reasons that the documents found during search suggest escapement of income. In the absence of any material to indicate that the income has escaped the assessment for the relevant A.Y, it may not be possible for he A.O to obtain the approval from the specified authority for the relevant A.Y for which the notice u/s 148 intended to be issued. In the instant case, the A.O has made two additions (i) on the basis of FOCUS 5.5 software and the (ii) addition by relying on the Pen Drive seized from the factory premises. However, on observation of the reasons recorded, the A.O has not demonstrated the escapement of income as envisaged in 1st proviso to section 148 of the Act, which is evident from the reasons recorded by the A.O. Therefore, he submitted that, the notice issued under section 148 on the basis of reasons recorded by the A.O without demonstrating the escapement of income for the relevant A.Y is

void ab initio. In this regard, he has relied upon the decision of Hon'ble Bombay High Court in the case of Kartik Suresh Chandra Gandhi vs. Assistant Commissioner of Income Tax (2023) 154 Taxmann.com 193 and the decision of the Hon'ble Delhi High Court in the case of Divya Capital One Pvt. Ltd vs. Assistant Commissioner of Income Tax (TS-5518-HC-2022(DELHI)-O). The assessee had also relied upon the decision of the Hon'ble Karnataka High Court in the case of Smt. Vasanthi Ramdas Pai vs. Income Tax Officer (TS-5059-HC-2024(Karnataka)-O). The assessee also relied upon the decision of the Hyderabad Benches in the case of ACE Tyres (P) Ltd vs. Assistant Commissioner of Income Tax in ITA Nos. 1084 to 1088 and 1027/Hyd/20252.

9. The Ld. CIT-DR, Shri. Narendra Kumar Naik, on the other hand, referring to the reasons given by the Ld. Pr. CIT, Central for forwarding the proposal of initiation of proceedings under section 147 of the Act, for approval of the DGIT (Inv.) had given elaborate reasons and satisfaction that during the course of search and seizure action under section 132 of the Act it was found that the assessee has unaccounted cash receipts from scrap sale and the assessee had admitted undisclosed income of Rs.3,55,81,180/- for the year under consideration. These unaccounted cash receipts have resulted in suppression of income and escapement of income for the relevant A.Y. Therefore, from the reasons recorded by the A.O for issuance of notice under section 148 of the Act, dated 21/11/2023, it is very clear that the A.O had arrived at a satisfaction regarding the undisclosed income

of Rs.6,42,24,650/- in the case of the assessee for the A.Y 2020-21. Therefore, the arguments of the learned Counsel for the assessee that the A.O has not recorded satisfaction by taking approval from the Pr. CIT before issuing notice under section 148 of the Act is contrary to the scheme of re-assessment proceedings provided in the case of search & seizure action conducted under section 132 of the Act. The Ld. CIT-DR further referring to the decision of the Hon'ble Madras High Court in the case of S.R. Trust vs. ACIT dated 12/03/2021 in Writ Petition No.2221 of 2018 submitted that the material seized by the Department from the Sr. Accounts Manager of the assessee's group would be an incriminating material for the purpose of issuance of notice u/s 148 of the Act and therefore, when these simultaneous search had been taken place in the case of the assessee and in the case of Sr. Accounts Manager, it is as good as the material was found in the possession of the employee of the assessee company in the course of search of the assessee and therefore, the argument of the learned Counsel for the assessee that the A.O required to invoke clause (iii) or (iv) of Explanation (2) of section 148 is contrary to the facts on record and is also devoid of any merit. Therefore, he submitted that there is no merit in the argument of the learned Counsel for the assessee on this issue and thus, the reopening of the assessment is valid in the given facts and circumstances of the case and thus, the grounds of appeal of the assessee should be rejected.

10. We have heard both the parties, perused the material available on record and had gone through the orders of the authorities below. We have also carefully considered the relevant case laws referred to by the learned Counsel for the assessee and the Ld. CIT-DR present for the Revenue. The learned Counsel for the assessee has made a legal argument in light of provisions of section 148 of the Act and more particularly Explanation (2) and sub clause (iii) & (iv) and argued that, the notice issued by the A.O under section 148 of the Act without fulfilling the conditions provided therein is invalid and consequently, the assessment order passed by the A.O is bad in law and liable to be quashed. Admittedly, there was a search proceeding under section 132 of the Income Tax Act, 1961 in Excel Group of Companies on 04/01/2023 and as part of the search, the assessee company was also searched on 04/01/2023. Consequent to the search, the assessment for the A.Y 2020-21 has been reopened by recording a reason dated 7/2/2024 which is available in page No.12 of the paper book filed by the assessee. Upon perusal of relevant reasons, we find that the A.O has recorded reasons for reopening of the assessment in light of search & seizure operation conducted under section 132 of the Act and consequent quantification of undisclosed income of Rs.6,42,24,650/- for the A.Y 2020-21 and has formed a reasonable belief of escapement of income by virtue of clause (i) of Exp. (2) of section 132 of the I.T. Act and observed that, the A.O shall be deemed to have information which suggests that the income chargeable to tax has escaped the assessment in the case of the assessee for the A.Y 2020-21. Therefore, it is

necessary for us to adjudicate the legal ground taken by the assessee, challenging the validity of the notice issued under section 148 of the Act and consequent assessment order passed by the A.O in the light of above facts.

11. There is no dispute with regard to the fact that, there was a simultaneous search proceeding on 04/01/2023, in the case of the assessee company and in the case of Shri Ramesh Kumar Sanaka, Sr. Accounts Manager of Exel Rubber Group of companies. The warrants of authorization for conducting the search have been separately issued for the assessee company and Shri Ramesh Kumar Sanaka, Sr. Accounts Manager which is evident from the relevant panchnama drawn on 04/01/2023. Further, the searches were also conducted at different places. The only common thread between these two searches is that Shri Ramesh Kumar Sanaka is Sr. Accounts Manager of Excel Group of Companies and he is a part of search operations conducted in the case of the assessee and other group companies. However, going by the warrant of authorization and consequent Panchanama drawn during the search operation, there is no dispute with regard to the fact that these are separate search proceedings, i.e., one in the case of the assessee company as part of search operations in Excel Group of Companies and another in the case of Shri Ramesh Kumar Sanaka, Sr. Accounts Manager of the assessee group. Further, the materials relied upon by the A.O for making the addition towards the undisclosed income for the year consideration is also on the basis of materials found in the

residential premises of Shri Ramesh Kumar Sanaka, Sr. Accounts Manager during the course of the search proceedings in his case which is evident from the relevant statement recorded under section 132(4) of the I.T. Act, and consequent certificate under section 65B of Indian Evidence Act, 1872 drawn during the course of search proceedings. This fact is also further strengthened by the findings of the A.O in the assessment order, where the A.O has clearly stated that the cash receipts recorded in FOCUS 5.5 software were found in the DELL Laptop and copied to the Pen Driver before taking printout during the course of search. Since the A.O has relied upon the seized material found during the course of search in the case of Shri Ramesh Kumar Sanaka, Sr. Accounts Manager, for framing the assessment of the assessee, it is necessary for us to examine the reasons recorded for reopening of the assessment for issuance of notice under section 148 of the Act, in light of provisions of section 148 of the Act. Therefore, for better understanding, we reproduce the provisions of section 148 of the Act, as applicable for the Asst. Year 2020-21 which read as under:

“148. Before making the assessment, reassessment or re-computation under section 147, and subject to the provisions of section 148A, the Assessing Officer shall serve on the assessee a notice, along with a copy of the order passed, if required, under clause (d) of section 148A, requiring him to furnish within such period, as may be specified in such notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far

as may be, apply accordingly as if such return were a return required to be furnished under section 139:

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

⁹⁴[Provided further that no such approval shall be required where the Assessing Officer, with the prior approval of the specified authority, has passed an order under clause (d) of section 148A to the effect that it is a fit case to issue a notice under this section.]

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

(i) any information ⁹⁵[***] in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board from time to time;

⁹⁶[(ii) any audit objection to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act; or

(iii) any information received under an agreement referred to in section 90 or section 90A of the Act; or

(iv) any information made available to the Assessing Officer under the scheme notified under section 135A; or

(v) any information which requires action in consequence of the order of a Tribunal or a Court.]

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

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

(ii) a survey is conducted under section 133A, other than under sub-section (2A) ⁹⁷[***] of that section, on or after the 1st day of April, 2021, in the case of the assessee; or

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

(iv) the Assessing Officer is satisfied, with the prior approval of Principal Commissioner or Commissioner, that any books of account or documents, seized or requisitioned under section 132 or section 132A in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee, the Assessing Officer shall be deemed to have information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee ⁹⁸[where] the search is initiated or books of account, other documents or any assets are requisitioned or survey is conducted in the case of the assessee or money, bullion, jewellery or other valuable article or thing or books of account or documents are seized or requisitioned in case of any other person.

Explanation 3.—For the purposes of this section, specified authority means the specified authority referred to in section 151.]”.

12. The provisions of section 148 of the Act, deals with the assessment, re-assessment or re-computation under section 147 and subject to the provisions of section 148A of the Act, the A.O serves on the assessee a notice requiring him to furnish within such period as may be specified in the said notice, a return of income or income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant Asst. Year. The 1st proviso to section 148 of the Act, provides that, no notice under section 148 shall be issued unless, there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year and the

Assessing Officer has obtained prior approval of the specified authority to issue such notice. Explanation (2) to section 148 deals with a deeming fiction where a search is initiated under section 132 or books of account are requisitioned under section 132A of the Act in the case of the assessee, the A.O shall be deemed to have information which suggests that the income chargeable to tax has escaped the assessment in the case of the assessee where the search is initiated or books of account or other documents are requisitioned in the case of any other person. In the present case, the A.O invoked clause (i) of Exp. (2) for recording reasons and issuance of notice under section 148 of the Act. But, it was the contention of the learned Counsel for the assessee that when the A.O is relied upon the material found during the course of search in the case of any other person for framing the assessment, then clause (iii) or (iv) of Exp (2) to section 148 is applicable and accordingly, the A.O is required to record satisfaction before recording the reasons for reopening of the assessment to the fact that the seized document pertains to or relates to the assessee.

13. Admittedly, clause (i) of explanation (2) of section 148 is applicable to a case, where a search is initiated under section 132 of the Act in the case of the assessee. Clause (iii) & (iv) of Exp (2) is applicable to a situation where the A.O is satisfied with prior approval of the Pr. CIT that any money, bullion, jewellery or other valuable article or things, seized or requisitioned under section 132 or section 132A in case of any other person on or after the 1st

day of April, 2021 belongs to the assessee or relates to the assessee. Once clause (iii) & (iv) of Exp. (2) is applicable, then for issuing the notice under section 148 of the Act, the A.O shall satisfy with the prior approval of the Pr. CIT that the books of account or other documents found during the course of search under section 132 in case of any other person belongs to the assessee or relates to the assessee. Only after recording satisfaction with the prior approval of the Pr. CIT, the A.O can record reasons for issuance of notice and then such satisfaction should be forwarded to the specified authority for obtaining approval under section 151 of the Act. In the present case on hand, the A.O has not recorded any satisfaction, nor had taken any prior approval from the Pr. CIT for recording satisfaction for issuance of notice under section 148 of the Act. Therefore, in our view, notice issued by the A.O under section 148 of the Act, without mandatory procedure provided under section 148 and explanation provided thereon is bad in law and vitiate the entire proceedings.

14. The A.O has recorded reasons for issuance of notice under section 148 of the Act on 21/11/2023. Upon perusal of the relevant reasons recorded for reopening of the assessment which is available in page 12 of the paper book filed by the assessee, we find that the A.O has considered information received in pursuant to the search & seizure action conducted under section 132 of the Act in the case of Excel Rubber Group of companies and quantification of undisclosed income of Rs.6,42,24,650/- for the

A.Y 2020-2021 and formed a reasonable belief of escapement of income by virtue of clause (i) of explanation 2 of section 148 of the Act, on the ground that the A.O shall be deemed to have the information which suggest the income chargeable to tax has escaped the assessment in the case of the assessee for the relevant A.Y. From the reasons recorded by the A.O, it is undisputedly clear that the A.O while arriving at the undisclosed income harped on the material seized from the premises of Shri Ramesh Kumar Sanaka, Sr. Accounts Manager without following the procedures as envisaged in section 148 of the Act which is evident from the reasons recorded for the relevant A.Y. Further, on observations of the reasons recorded, we find that the A.O invoked clause (i) of explanation (2), whereas in the present clause (iii) and (iv) of explanation (2) of section 148 is applicable because, the A.O has quantified the escaped income on the basis of material found in the residential premises of Shri Ramesh Kumar Sanaka, Sr. Accounts Manager of the assessee company and therefore, the A.O should have arrived at a satisfaction that the said seized material belongs to the assessee which suggested escapement of income for the relevant A.Y. This is because, although there is a deeming provision of information for issuance of notice under section 148 of the Act where search is conducted under section 132 of the Act, but because of 1st proviso of section 148 of the Act, the A.O shall ascertain from the information gathered during the course of search that income chargeable to tax has escaped the assessment in the case of the assessee for the relevant A.Y. Going by the proviso to section 148 of the Act, Explanation 2 provides only a

limited relaxation and the 1st proviso to section 148 put a negative condition on the A.O with the rider that information which suggests that income chargeable to tax has escaped the assessment for the relevant A.Ys. Therefore, from the above provisions of the Act, it is very clear that no notice under section 148 shall be issued automatically to the searched person and the A.O needs to apply his mind while seeking approval under section 151 from the specified authority and demonstrate that the information discovered/obtained during the search suggest that income has escaped assessment for the relevant A.Y for which notice under section 148 is issued. Further, the satisfaction of the A.O can be demonstrated from the reasons recorded. However, in the present case, going by the reasons recorded, there is no such demonstration by the A.O which is evident from the relevant reasons where the A.O simply relied upon the information submitted by the ADIT (Inv.), quantifying the undisclosed of Rs.6,42,24,650/- for the A.Y 2020-21 which is once again based on the material found in the possession of any other person. Therefore, in the absence of any satisfaction from the A.O, on the basis of information that income escaped the assessment for the relevant A.Y, issuance of notice under section 148 of the Act by considering clause (i) of Exp (2) of section 148 is contrary to the scheme of assessment as provided under section 148 of the Act, in pursuant to the search u/s 132 or requisition u/s 132A of the Act. Therefore, in our considered view, despite the deeming fiction provided under section 148, even in the case of searched person, the A.O may still be required to demonstrate that the income of

the relevant A.Y has escaped the assessment before issuing notice under section 148 of the Act.

15. The harmonious interpretation of the deeming fiction created in respect of the person searched under Exp. (2) and the proviso to section 148 may be that notice under section 148 can be issued only when there is material for the relevant A.Y found during the course of search which suggests that income chargeable to tax has escaped assessment. Mere factum of search itself cannot be a reason for issuing notice for re-assessment. In the absence of income has escaped the assessment for the relevant A.Y, it may not be possible for the A.O to obtain prior approval from the specified authority for the relevant A.Y for which notice under section 148 is intended to be issued. Therefore, in our considered view, when the statute provides a particular thing to be done in a particular way, the thing has to be done in that way alone and no any other manner which is otherwise not provided under the law. The Hon'ble Supreme Court in the case of Chandra Kishore Jha vs. Mahavir Prasad (1999) 8 SCC 266 in Para 17 laying down the aforesaid principle held that "it is well settled solitary principle that if the statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner". The said principle of law was further reiterated in the case of Cherukuri Mani vs. Chief Secretary, Govt. of Andhra Pradesh (2015) 13 SCC 722. The sum and substance of ratio of the above cited judgements are that if law provides for a thing to be done in a particular manner, then it

has to be done in that manner without any deviation. In the present case, the AO invoked clause (i) of Explanation 2 to Section 148, whereas going by the facts of the present case, clause (iii) & (iv) of Explanation 2 of Section 148 is applicable. Therefore, the reasons recorded by the AO for issuing notice u/s 148 of the Act contrary to Section 148 of the Act is certainly invalid, void ab initio and vitiate the entire assessment proceedings.

16. At this stage, it is relevant to refer to the decision of ITAT, Chandigarh Bench in the case of Home Life Buildcon vs. DCIT in ITA No.880/Chd/2024, order dated 17/07/2025, where the Coordinate Bench of the Tribunal in para 21 to 24 held that the AO instead of complying with the jurisdictional pre-conditions laid down under the re-assessment proceedings, proceeded without recording the mandatory satisfaction and without obtaining prior sanction from the competent authority. This conduct not only violates the express mandate of law, but also renders the assessment a jurisdictional error. The AO has in fact, gone a step further by bypassing the legal safeguards embedded in Section 147 of the Act, thereby vitiating the assessment proceedings ab initio. The relevant findings of the Tribunal in para Nos. 21 to 24 are as under:

“21. We have gone through the additional ground of appeal as taken before us and also the assessment order, order of the CIT(A), written brief synopsis of the assessee on the issue of additional ground of appeal and also the arguments of the Ld. CIT DR. The facts are not in dispute viz-a-viz the facts that the search was conducted on the assessee on 16.11.2021 and also the fact that separate search was conducted on Sh. Ajay Prabhakar (Deed Writer) and Sh. Ravi

Kapoor (Broker in real estate) and distinct and different Panchanama was drawn in their respective names in their cases. In so far as, the first issue regarding the passing of order u/s 143(3) instead, of framing the assessment u/s 147 is concerned, we find that after the search was conducted on 16.11.2021, the case was centralized on 11.03.2022 and the return of Income was filed by the assessee for Asstt. Year 2021-22 as per the extended time available on 5th of March 2022 and, thus, it is a case where the notice u/s 143(2) was issued after centralization of case and a sufficient time had passed from the date of search i.e. 16.11.2021 to the date of issue of notice u/s 143(2), dated 17th of June 2022 and the Assessing Officer was well aware of the information and material including, the material found and seized from the third parties namely Sh. Ajay Prabhakar and Sh. Ravi Kapoor and further to that, we have carefully gone through explanation -2 to section 147 as amended by Finance Act 2021 as 'cited supra', which clearly lays down the mandatory procedure to be followed in search assessment and which apparently has not been followed in the present case.

22. The core question before the Bench is whether, in the facts and circumstances of the case, the assessment ought to have been framed under section 143(3) or under section 147 of the Income-tax Act, 1961. From the plain reading of the statutory provisions and in light of Explanation 2 to section 148, it becomes abundantly clear that the legislature has widened the scope of reassessment, particularly through the Finance Act, 2021, which introduced significant changes to the reassessment regime. These amendments explicitly include instances involving third-party search material and make it incumbent upon the Assessing Officer (AO) to follow the procedure under section 148, including obtaining prior approval from the Principal Commissioner of Income Tax (PCIT).

23. In the present case, the AO proceeded to frame the assessment under section 143(3) despite relying heavily on material found during searches conducted on third parties. The AO, instead of complying with the jurisdictional preconditions laid down under the reassessment provisions, proceeded without recording the mandatory satisfaction and without obtaining prior sanction from the competent authority. This conduct not only, violates the express mandate of law, but also renders the assessment a jurisdictional error. The AO has, in fact, gone a step further

by bypassing the legal safeguards embedded in section 147, thereby vitiating the assessment proceedings ab initio

24. Furthermore, a plain reading of the Finance Act, 2021 and the Explanatory Memorandum to the Finance Bill clearly indicates that the legislative intent was to bring all searches conducted on or after 1st April 2021 within the ambit of the new reassessment regime under section 147 of the Income-tax Act, 1961. This new regime was introduced through significant amendments to section 147 and section 148, along with the insertion of Explanations 1 and 2, and the concept of "information suggesting escapement of income" was explicitly defined. From the reading of Explanation 2 to Section 147, it is evident that in cases where a search is initiated on or after 1st April 2021, the Assessing Officer shall be deemed to have information, which suggests that income chargeable to tax has escaped assessment for three assessment years immediately preceding the assessment year relevant to the previous year, in which, the search is initiated, provided that books of account, documents, assets, bullion, jewellery, or other valuable articles are seized or requisitioned in the course of the search. This deeming provision is not limited only to the person searched, but also extends to "other persons", provided that due procedure under the law-specifically, the recording of satisfaction that such seized material belongs to the assessee and obtaining prior approval from the PCIT-is followed."

17. In so far as the arguments of the Ld. CIT (DR) in light of the decision of the Hon'ble Madras High Court in the case of S. R Trust vs. ACIT (Supra), we find that although the Ld. CIT (DR) argued the principle of constructive possession but, going by the facts of the above case, it is very clear that the case of the assessee was subject to assessment proceedings u/s 153C of the Act in consequent to search proceedings in the case of Trustee of the S.R. Trust and during the course of search proceedings, the Department found certain incriminating material pertains to or relates to the assessee in possession of the employee of the Trustee which has a bearing on the determination of the total

income of SR Trust for the relevant A.Y. Since the assessment of the S.R. Trust was taken up with reference to a satisfaction note, recorded u/s 153C of the Act by the AO of the searched person, i.e. the Trustee of SR Trust, the material found in the possession of the employee has been used to arrive at an undisclosed income and for the purpose of the assessment. The appellant contended before the Hon'ble High Court that the material found in the possession of the 3rd party cannot be used against the assessee. Under those facts, the Hon'ble High Court held that once incriminating material was found in the possession of the searched person, then same material can be used in the assessment of the searched person or any other person referred to u/s 153C of the Act. In the present case, facts are entirely different, because the AO used the material found in the possession of Shri Ramesh Kumar Sanaka, Sr. Accounts Manager of Exel Group of Companies found during the course of search proceedings in his case and framed the assessment of the assessee. Therefore, in our considered view, the AO is bound to record satisfaction as per clause (iii) of Exp. (2) to Section 148 of the Act. The provisions of Section 148 of the Act is pari materia to section 153C of the Act. Therefore, satisfaction is pre-requisite before issue of notice under section 153C when the seized material pertains to the other person. In the same manner, when the AO has found the material which was seized in the premise of the other person which pertains to the appellant, he has to write satisfaction and take approval from the Pr. CIT for acquiring jurisdiction. Since, the AO has proceeded on the basis that search

is conducted in the case of the assessee and clause (i) of Exp. (2) of Section 148 is applicable and recorded reasons, in our considered view, the reasons recorded by the AO for issue of notice u/s 148 is not in accordance with provisions of Section 148 of the Act and consequently, the notice issued by the AO u/s 148 of the Act and consequent assessment order is without any jurisdiction and liable to be quashed.

18. In the instant case, the A.O has made 2 additions, i.e. one addition by relying on the material seized from the residential premises of Shri Ramesh Kumar Sanaka, Sr. Accounts Manager i.e. FOCUS 5.5 software and the other addition by relying on the Pen Drive seized from the factory premises. On observation of the reasons recorded, the A.O has not demonstrated escapement of income as envisaged in the 1st proviso to section 148 of the Act. The A.O failed to prove any nexus between the material seized and the escapement of income while invoking the provisions of section 148 of the Act, which is evident from the relevant reasons recorded for reopening of the assessment. Therefore, in our considered view, the notice issued by the A.O under section 148 of the Act on the basis of the reasons recorded for reopening of the assessment is invalid and consequently, the assessment order passed by the A.O is bad in law and liable to be quashed.

19. The appellant has relied upon certain judicial precedents in support of its contention. The appellant has relied upon the decision of the Hon'ble Bombay High Court in the case of Kartik Suresh Chands vs. Assistant Commissioner of Income Tax

(Supra). The Hon'ble High Court in light of provisions of section 148 has held as under:

“It goes to say that even the Asstt. Commissioner, who has sought approval, has not applied his mind. It is opined that if only the Asstt. Commissioner had read the report carefully, he would have never come to the conclusion that there is any material before him to treat it as a fit case to issue notice under section 148 or pass order under section 148A(d). The safeguards provided in sections 148 and 151 were lightly treated by the Asstt. Commissioner and the Pr. Commissioner. Both of them appear to have taken the duty imposed on them under these provisions as of little importance. On this ground alone, the order passed under section 148A(d) and notice issued under section 148 have to be quashed and set aside”

20. The appellant had also relied upon the decision of the Hon'ble Delhi High Court in the case of Divya Capital One Pvt. Ltd vs. Assistant Commissioner of Income Tax (Supra), wherein the Hon'ble Delhi High Court held that “whether it is information to suggest” under amended law or ‘reason to believe’ under erstwhile law, the benchmark of ‘escapement of income chargeable to tax’ still remains the primary condition to be satisfied before invoking powers under section 147 of the Act.

21. Similar issue has come up before the Hon'ble Karnataka High Court in the case of Smt. Vasanthi Ramdas Pai vs. Income Tax Officer (Supra), where it has been held that to say that the A.O can invoke section 148 without any reason, could apart from the contrary to law, also falls foul of Article 14'. The Court has further held that on conjoint reading of provisions of section 147 and 148 of the Act, escapement of income is a sine qua non for initiating proceedings under section 147 of the Act.

22. In this view of the matter and considering the facts and circumstances of this case and also by following the ratios of case laws, discussed herein above, we are of the considered view that notice issued under section 148 of the Act, on the basis of reasons recorded for reopening in light of search action conducted under section 132 of the Act is bad in law, because the A.O has considered the material found in the residential premises of Shri Ramesh Kumar Sanaka, Sr. Accounts Manager, of Exel Rubber Group for making additions in the hands of the assessee, even though there was a separate and simultaneous search in the case of the appellant and other group companies and in the case of Shri Ramesh Kumar Sanaka, Sr. Accounts Manager. Further, when the A.O relied upon the material found in the search proceedings of other person on or after the 1st day of April, 2021 which belongs to the assessee or relates to the assessee, then the A.O is required to record reasons for reopening of the assessment in light of clause (iii) or (iv) of Exp (2) to section 148 of the Act, by following due procedure under the Act before issuing notice under section 148 of the Act. In the present case, the A.O has invoked clause (i) of Exp (2) to section 148 on the grounds that once there was a search, the A.O shall be deemed to have the information which suggests that income chargeable to tax has escaped the assessment in the case of the assessee, even though there was a search in the case of the appellant, but the A.O has made addition only on the basis of material found in the search proceedings of any other person and consequently, it is incumbent upon the A.O to record reasons after satisfying with prior approval of the Pr. CIT

that books of account and other material found during the course of search in case of any other person belongs to or relates to the assessee. Since the A.O has recorded reasons on the premise that there was a search action in the case of the assessee under section 132 of the Act, even though the material available on record clearly shows that the addition made by the A.O is not on the basis of material found in the search proceedings of the assessee, but based on the material found during the search proceedings in the residential premises of Shri Ramesh Kumar Sanaka, Sr. Accounts Manager, in our considered view, the reasons recorded for reopening of the assessment and consequent notice issued under section 148 of the Act is invalid and consequently, the assessment order passed by the A.O becomes void ab initio and liable to be quashed. Therefore, we quash the assessment order passed by the A.O under section 147 of the Act, dated 06/03/2025.

23. In the result, the appeal of the assessee is allowed.

ITA No. 1571/Hyd/2025 A.Y 2021-22

24. The facts and issues involved in this appeal are identical to the facts and issues which we have considered in assessee's own case for the A.Y 2020-21 in ITA No.1566/Hyd/2025. The reasons given by us in preceding paragraphs Nos.10 to 22 of this order shall mutatis mutandis apply to this appeal as well. Therefore, for similar reasons, we

quash the assessment order passed by the A.O under section 147 of the Act, dated 07/02/2025 for A.Y 2021-22.

25. In the result, appeal filed by the assessee in ITA No.1571/Hyd/2025 for the A.Y 2021-22 is allowed.

26. To sum up, both appeals filed by the assessee are allowed.

Order pronounced in the Open Court on 18th February 2026.

Sd/-

Sd/-

(VIJAY PAL RAO) VICE PRESIDENT	(MANJUNATHA, G.) ACCOUNTANT MEMBER
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Hyderabad, dated 18th February 2026.

VBV Prasad/sps

Copy to:

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3	Pr. CIT – Central, Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order