Case Citation: (2026) taxcode.in 1759 HC

HC-KAR

NC: 2026:KHC:56187
WP No. 29609 of 2026

CNR: KAHC010647872026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE B M SHYAM PRASAD

WRIT PETITION NO. 29609 OF 2026 (T-IT)

BETWEEN:

M/S SHREE MOOKAMBIKA DEVELOPERS
A PARTNERSHIP FIRM REGISTERED
UNDER THE INDIAN PARTNERSHIP ACT, 1932,
HAVING ITS OFFICE AT
SHREE KAMAKSHI, BANKESHWAR ROAD,
BYNDOOR, KUNDAPURA TALUK,
UDUPI-576214 REPRESENTED BY ITS PARTNER,
SRI. K VENKATESH KINI.

...PETITIONER

(BY SRI. S.S. NAGANAND., SENIOR ADVOCATE FOR
SRI. NAGESH MORO., ADVOCATE)

AND:

1. ADDITIONAL COMMISSIONER OF
INCOME TAX RANGE-1, MANGALORE
C.R. BUILDING, N.G. ROAD, ATTAWARA,
MANGALURU-575001.

2. INCOME TAX OFFICER,
WARD 1 AND TPS, UDUPI
AAYAKAR BHAVAN, UDUPI,

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MALPE ROAD, AADI UDUPI,
AMBALAPADI (PO), UDUPI-576103.

...RESPONDENTS

(BY SRI.M. THIRUMALESH., ADVOCATE FOR
SRI. NIRMAL MATHEW., ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO-QUASH THE ORDER DATED 16.06.2026 BEARING NO. ITBA/AST/F/148A/2026-27/1089768841(1) PASSED BY R2 (ANNX-C); QUASH THE PRIOR APPROVAL ORDER DATED 12.06.2026 BEARING NO. ITBA/AST/S/128/2026-27/1089642949(1) PASSED BY THE R1 (ANNX-C1); QUASH THE NOTICE DATED 16.06.2026 BEARING NO. ITBA/AST/S/148-1/2026-27/1089769380(1) PASSED BY R2 (ANNX-D).

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE B M SHYAM PRASAD

ORAL ORDER

The petitioner has called in question the Order/prior approval under Section 148A(3) and Section 151 of the Income Tax Act, 1961 [for short, *the IT Act'*] and the Notice under Section 148 of the IT Act for the assessment year 2022-23. The details of

these impugned Order/prior approval and notice are as follows.

Particulars	***Section of the Income Tax Act, 1961***	***Date***	***Annexure***
Order	*148A(3)*	*16.06.2026*	*C*
Prior Approval	*148A(3) and 151*	*12.06.2026*	*C1*
Notice	*148*	*16.06.2026*	*D*

2. Mr. S. S. Naganand, the learned Senior counsel for the petitioner, submits that the petitioner is issued with Show Cause Notice under Section 148A(1) of the IT Act on 27.03.2026 and this Court must intervene because of the following:

2.1 The petitioner is informed that a *business turnover* of Rs.3,35,80,385/- is not disclosed in the Returns and that the petitioner, in response, has filed a detailed reply stating that the sum of

Rs.3,35,80,385/- is not a *business turnover* but a loan availed by certain Firms, *capital transactions* with M/s Ramanath Services, receipts from the debtors, capital receipt arising out of sale of vehicle, cash deposit and interest on refund and producing the bank account statements. The petitioner has also offered to issue clarification if required.

2.2 The second respondent, without considering the same, has passed an Order under Section 148A of the IT Act and has caused the impugned notice opining that the petitioner has not provided the Creditor's Bank statement and that the matter *requires a thorough investigation*.

2.3 The second respondent, as required under Section 148A(3) of the IT Act, is obliged to take into account the petitioner's response and pass an order about the case *being fit for reassessment* under Section 147 of the IT Act *and for notice* under Section

148 of the IT Act and unless the second respondent considers the response and opines that it *is a fit case*, the notice under Section 148 of the IT Act and further proceedings would be a roving exercise which cannot be in law.

2.4 The first respondent's approval must be after the second respondent records an opinion on the case being fit for reassessment under Section 147 of the IT Act with notice under Section 148 thereof. The notice to the petitioner under Section 148A(1) is dated 27.03.2026 but the first respondent's approval is dated 27.03.2026 [*on the same day and prior to the petitioner's response*]. This demonstrates that there is pre-determination and an enquiry under Section 148A of the IT Act is treated a formality.

3. Mr. M. Thirumalesh, a learned Senior Standing Counsel who accepts notice for the respondents, and who is assisted by Mr. Nirmal

Mathew, a learned Standing counsel, is heard for the disposal of the petition in the light of these circumstances. On the petitioner's case that the first respondent's approval is pre-dated, the learned Senior standing counsel/Standing counsel inviting this Court's attention to *Annexure-C1* submit that it is digitally signed on 12.06.2026 and they also contend that the second respondent has not permitted a roving exercise in recording fitness.

4. The proceedings are begun with notice under Section 148A(1) of the IT Act based on certain information on *business turnover*, and the petitioner has responded specifically stating, and enclosing certain documents [*as could be seen from the reply dated 23.04.2026 Annexure – B*] that the amount is not a *business turnover* but a loan availed by certain Firms, *capital transaction*s with M/s Ramanath Services, receipts from the debtors, capital receipt arising out of sale of vehicle, cash deposit and

interest on refund and producing the bank account statements.

5. The second respondent has recorded reasons as follows:

> *"The assessee firm in its reply stated that it has received a sum of Rs. 3.20 crores from Ramantath [sic] Services. The owner of Ramanath Services is Mr. Venkatesh Kini and the managing partner of this firm is also Mr. Venkatesh Kini. The assessee firm has not mentioned the purpose for which this amount has been received from it's Managing partner, Mr Venkatesh Kini proprietor of Ramanath Services. It is seen from the profit and loss account that assessee firm has not made any sales or purchases for the year under consideration. Assessee firm is not showing any income from business for which it is registered as real estate. A sum of Rs.3.20 crores received from Mr Venkatesh Kini Prop of Ramanath Services is not reflected in profit and loss account as turnover nor in the Balance sheet of the assessee firm as capital or unsecured loan. It is observed from the Balance sheet, that there is no increase in capital during the year, nor there is an increase*

in unsecured loan, therefore, this amount has not been accounted in the books of account of the assessee firm. Therefore, in the absence of valid explanation from the asseesee for the difference in bank credits and turnover of Rs.Rs.[sic] 3,35,80,385/-, this remains unexplained.

As the assessee has no valid explanation for the nature and source of the above mentioned transactions, remains unexplained. Thus, income arising out of the above transactions has not been offered for tax for the relevant A.Y. 2022-23 as per the provisions of the Income Tax Act 1961. It is therefore clear that the assessee does not have any explanation as to why a notice u/s 148 of the IT Act should not be issued. As there is information available with the department as per para 1 above which suggests that the Income of the assessee has escaped assessment, it is necessary to make an assessment of the income."

6. The petitioner's specific case is that the *capital transactions* with M/s Ramanath Services are specifically mentioned in Entry-2 Schedule-K of its Balance Sheet disclosing the loan outstanding as of

31.03.2021 and 31.03.2022. This specific reply has not been considered, and this is too glaring. Further, the second respondent should have called for clarification on the *absence of increase in the capital or the unsecured loan* as offered by the petitioner for an effective consideration under Section 148A(3). This Court in the Writ Petitions filed by the proprietor/associated concerns has intervened in similar circumstances to restore the proceedings.

7. These circumstances persuade this Court to opine that the second respondent, to conclude that there must be proceedings with issuance of notice under Section 148 of the IT Act, should have first examined the documents produced by the petitioner and then record an opinion, offering cogent reasons, on the circumstances that justify the case being fit for issuance of notice under Section 148 of the IT Act.

8. Further, this Court must also observe that the second respondent, while granting approval under Section 148A(3) and Section 151 of the IT Act, should have looked into all these and then granted approval, and, significantly, should have ensured that there is no reason for the assertions that there is pre-determination because of a technical glitch or otherwise. This Court, where similar circumstances are canvassed on behalf of the petitioner's associate companies, has refused to set at naught the entire proceedings on this ground. This Court also observes that with the Order under Section 148A of the IT Act being quashed, the first respondent's approval [*as per Annexure-C1*] will stand dissolved. Hence, the following.

ORDER

A. The petition is allowed in-part.

B. The following order/notice are quashed.

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Particulars	***Section of the Income Tax Act, 1961***	***Date***	***Annexure***
Order	*148A(3)*	*16.06.2026*	*C*
Notice	*148*	*16.06.2026*	*D*

C. The petitioner, without further notice, shall appear before the Income Tax Officer, Ward-1 and TPS, Udupi [*the second respondent*] on ***30.10.2026*** and will be at liberty to file any further clarification that the second respondent may seek, but the second respondent must consider the explanation offered in the light of this Court's observation as afore.

Sd/-
(B M SHYAM PRASAD)
JUDGE

NV

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