आयकर अपीलीय अधिकरण, हैदराबाद पीठें, हैदराबाद
INCOME TAX APPELLATE TRIBUNAL,
HYDERABAD BENCHES, HYDERABAD

BENCH: B

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

ITA 991/HYD/2026 (निर्धारण वर्ष/Assessment Year: **2018-19**)		
MAHESH PULAVENI H NO 53-39-91, Q NO D-558, 2ND ZONE, MANDAMARRI, KALYANIKHANI, ADILABAD-504231, TELANGANA	**Vs.**	**ITO, WARD -11(1)** SIGNATURE TOWERS, SY.NO.6(P) OF KONDAPUR SY.37(P) OF KOTHAGUDA, OPP. BOTANICAL GARDENS HYDERABAD-, TELANGANA
अपीलार्थी **Appellant**		प्रत्यर्थी **Respondent**

Permanent Account Number of Assessee:	**BGRPP5780Q**
अपीलार्थी द्वारा/Appellant represented by:	**Mr S. Venkateswarlu, Tax Consultant**
प्रत्यर्थी द्वारा/Respondent represented by:	**Shri K Prasad, SR-AR**

सुनवाई की तारीख / Date of conclusion of hearing:	**07-September-2026**
घोषणा की तारीख / Date of pronouncement:	**16-October-2026**

आदेश / ORDER

PER RAVISH SOOD, JM:

The present appeal filed by the assessee is directed against the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi (for short, "CIT(A)"), dated 08/01/2026, which in turn arises from the order passed by the Assessing Officer (for short "AO") under section 147 r.w.s 144 r.w.s 144B of the Income Tax Act, 1961 (for short "the Act"), dated

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13/12/2023 for Assessment Year (AY) 2018-19. The assessee has assailed the impugned order on the following grounds of appeal before us:

> "1. The order of the Ld. CIT(A) is bad in both law and on facts of the case.
>
> 2. The Ld. CIT(A) failed to appreciate that the notice issued u/s 148 dated 02.04.2022 for AY 2018-19 is bad in law as the same was issued in contravention to provisions of section 151 of the Act i.e. no proper approval was taken from the specified authority and hence the subsequent proceedings and the assessment order dated 13.12.2023 are invalid.
>
> 3. The Ld. CIT(A) failed to appreciate that the notice issued u/s 148 dated 02.04.2022 for AY 2018-19 is bad in law as the same was issued in contravention to provisions of section 149(1)(a) of the Act and hence the subsequent proceedings and the assessment order dated 13.12.2023 are invalid.
>
> 4. The order u/s 148A(d) dated 31.03.2022 and notice u/s 148 of the Act dated 02.04.2022 are bad in law as the same were issued in contravention to provisions of Section 151A of the Act. The Jurisdictional Assessing Officer (JAO) has no authority to pass order u/s 148A(d) and issue notice u/s 148 of the Act in contravention of judicial decisions. Hence the whole reopening proceedings and the assessment order are to be held as invalid.
>
> 5. The Ld. CIT(A) erred in holding that the reopening of assessment is valid though the case was reopened on wrong assumption that withdrawals in bank account out of Business income are income which has escaped assessment. Mere withdrawal of cash from Bank account cannot be said to be the information which suggest that income chargeable to tax has escaped assessment.
>
> 6. The Ld. CIT(A) erred in upholding the addition of Rs 2,32,44,505/- as unexplained money u/s 69A of the Act without appreciating the fact that sec 69A is not applicable to the case of the appellant
>
> 7. The Ld. CIT(A) ought to have appreciated that all the credits in the ICICI Current account bearing no 111505500893 are digital transfers on account of allowing the customers to use POS/Swiping machine for withdrawing the cash by using their credit cards to avoid heavy cost to them and as such the assessee earned commission approximately at the rate of 1 percent on such transfers. As such the income of the assessee was approximately to the tune of Rs. 2,32,445/- which is less than the admitted commission/business income of Rs 7,60,214/- which works out to 3.2 percent approximately.
>
> 8. The order of the Ld. CIT(A) is to be held as bad in law as the Ld. CIT(A) failed to pass a speaking order in terms of section 250(6) of the Act.
>
> 9. The appellant craves leave to add, alter OR amend the above grounds of appeal before OR in course of hearing."

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2. Succinctly stated, the AO based on information gathered as per NMS module of Insight Portal, observing that the assessee during the subject year had carried out substantial financial transactions/receipt of income, but had not filed his return of income for the year under consideration, initiated proceedings under section 147 of the Act. Thereafter, the AO issued a show cause notice (SCN) under section 148A(b) of the Act, dated 20/03/2022, wherein the assessee was called upon to furnish his reply latest by 27/03/2022 as to why a notice under section 148 of the Act may not be issued. However, as the assessee failed to comeforth with any reply, the AO passed an order under section 148A(d) of the Act, dated 31/03/2022 after obtaining the prior approval of the PCIT-2, Hyderabad. Notice under section 148 of the Act, dated 04/02/2022 was issued by the AO. However, the assessee failed to furnish his return of income in response to the said notice.

3. Thereafter, the AO vide the order passed under section 147 r.w.s 144 r.w.s 144B of the Act, dated 13/12/2022, determined the income of the assessee at Rs.2,31,62,803/- after making certain additions/disallowances, viz., (i) addition of the deposits made in the current account No.111505500893 held by the assessee with ICICI Bank Limited by treating the same as having been sourced out of the assessee's unexplained money under section 69A of the Act: Rs.2,32,44,505/-; (ii) addition of commission/brokerage received by the assessee during the subject year on which tax was deducted at source under section 194H

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of the Act: Rs.45,568/-; and (iii) addition of fees for professional or technical services under section 194J of the Act: Rs.170/-.

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

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

6. We have heard the Learned Authorized Representatives of both parties, perused the orders of the lower authorities and the material available on record, as well as considered the judicial pronouncements that have been pressed into service by them to drive home their respective contentions.

7. Sri S Venkateswarlu, Tax Consultant, the Learned Authorized Representative (for short "Ld.AR") for the assessee, at the threshold of hearing of the appeal, submitted that the A.O. had grossly erred in law and on facts of the case in assuming jurisdiction and framing the impugned assessment vide his order passed u/s 147 r.w.s 144 r.w.s 144B of the Act, dated 13/12/2023. Elaborating on his contention, the Ld. AR submitted that as notice u/s 148 of the Act, dated 02/04/2022 for the subject year i.e. A.Y. 2018-19 had been issued by the A.O. beyond a period of three years from the end of the relevant assessment year, therefore, as per the mandate of Section 151 of the Act, as was made available on the statute vide the Finance Act, 2021 w.e.f. 01.04.2021, the said notice could have been issued only after obtaining the prior approval of the authorities

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contemplated in sub-section (ii) of Section 151 of the Act, viz. Principal Chief Commissioner/Principal Director General/Chief Commissioner /Director General. The Ld. AR submitted that the notice under Section 148 of the Act, dated 02/04/2022, had been issued in the present case after obtaining the prior approval of the Principal Commissioner of Income-tax on 02/04/2022. The Ld. AR to fortify his contention had drawn our attention to the notice u/s 148 of the Act, dated 02/04/2022, which revealed that the same was issued after obtaining the prior approval of PCIT, Hyderabad-2, accorded on 02/04/2022 vide reference No.100000029228358 (Page 1d of APB).

8. Carrying his contention further, the Ld. AR submitted that as the impugned notice under Section 148 of the Act, dated 02/04/2022 had been issued by the A.O. without obtaining the approval of the prescribed authority, therefore the said notice and the consequential assessment framed by him vide his order passed under Section 147 r.w.s 144 r.w.s 144B of the Act, dated 13/12/2023 cannot be sustained and is liable to be quashed on the said count itself.

9. Per contra, Shri K Prasad, Learned Senior Departmental Representative (for short "Ld. Sr. DR"), on being confronted with the aforesaid factual position as was canvassed before us, failed to rebut the same. However, the Ld. Sr. DR submitted that as the A.O., after validly assuming jurisdiction, had issued notice u/s 148 of the Act, dated 02/04/2022, therefore, no infirmity emerges from the assessment order passed by him.

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10. Shri K Prasad, Learned Senior Departmental Representative (for short, "Ld. Sr-DR") relied upon the orders of the authorities below. The Ld. Sr-DR submitted that the Hon'ble High Court of Patna in its recent order passed in the case of Chandra Shekhar vs. Principal Commissioner of Income Tax (2025) 173 taxmann.com 591 (Patna) had observed that on a combined reading of the "fifth proviso" and "sixth proviso" to section 149(1) of the Act, the period of limitation for issuing notice under section 148 of the Act is to be reckoned in reference to the notice issued by the AO under section 148A(b) of the Act. Elaborating on his contention, the Ld. DR submitted that the aforesaid order of the Hon'ble High Court had thereafter been approved by the Hon'ble Supreme Court, which had observed that, as there was no good ground to interfere with the impugned order passed by the High Court, and dismissed the Special Leave Petition (SLP) filed by the assessee. The Ld. DR had filed before us a written submission/synopsis wherein he had referred to the aforesaid judicial pronouncements, and submitted that as the notice under section 148A(b) of the Act in the case of the present assessee society was issued on 20/03/2022, i.e., with the time period of six years from the end of the assessment year, thus, no infirmity emerges from the jurisdiction assumed by the AO for framing the assessment. The Ld. DR had further relied upon the judgment of the Hon'ble High Court of Delhi in the case of BKR Capital (P.) Ltd. vs. Income Tax Officer (2026) 187 taxmann.com 10 (Delhi) and Rajmani Securities (P.) Ltd vs. Income Tax Officer (2026) 187 taxmann.com 101 (Delhi), wherein the Special Leave Petitions (SLPs) filed in the

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said cases too had been dismissed by the Hon'ble Supreme Court as BKR Capital (P.) Ltd vs. ITO (2026) 187 taxmann.com 1073 (SC) and Rajmani Securities (P.) Ltd vs. ITO (2026) 187 taxman.com 1077 (SC). The Ld. DR submitted that in both the aforementioned cases, the Hon'ble High Court had observed that the extended time period taken by the assessee for furnishing the reply to the notice issued under section 148A(b) of the Act is to be excluded while considering as to whether or not the notice issued under section 148 of the Act is within limitation. Carrying his contention further, the Ld. DR submitted that both the aforementioned orders of the Hon'ble High Court of Delhi in the case of BKR Capital (P.) Ltd vs. ITO (supra) and Rajmani Securities (P.) Ltd vs. ITO (supra) have been upheld by the Hon'ble Supreme Court and the respective Special Leave Petitions (SLPs) had been dismissed.

11. The Ld. DR based on his aforesaid contentions and drawing support from the above mentioned judicial pronouncements submitted that as in the case of the present assessee society, the AO had issued notice under section 148A(b) of the Act on 20/03/2022, i.e., before lapse of the time period of six years from the end of the assessment year, therefore, the notice under section 148 of the Act could safely be held to have been issued within the prescribed time period contemplated under the pre-amended section 149(1) of the Act.

12. We have given thoughtful consideration to the contentions advanced by the Ld. Authorized Representatives of both parties in the backdrop of the orders of the authorities below.

13. Admittedly, it is a matter of fact borne from record that the impugned notice under section 148 of the Act, dated 02/04/2022, had been issued beyond the time limit specified under the provisions of clause (b) of sub-section (1) of section 149 of the Act as they stood immediately before the commencement of the Finance Act, 2021. We say so, for the reason that as per the pre-amended section 149(1)(b) of the Act, a notice under section 148 of the Act for the AY 2015-16 could have been issued by the AO latest by 31/03/2022. At this stage, we deem it apposite to observe that the **Hon'ble Supreme Court** in its recent order passed in **BKR Capital (P.) Ltd *v.* Income-tax Officer, [2026] 187 taxmann.com 1073 (SC), dated 29/05/2026** and **Rajmani Securities (P.) Ltd. *v.* Income-tax Officer [2026] 187 taxmann.com 1077 (SC), dated 24/06/2026** has dismissed the SLP's filed by the respective assessee's arising from the common order passed by the **Hon'ble High Court of Delhi** in **BKR Capital (P.) Ltd. *v.* Income-tax Officer, 4(1), Delhi,** in **W.P.(C) 19738/2025** and **Rajmani Securities (P.) Ltd. *v.* Income-tax Officer, W.P.(C) 19769/2025, dated 26/02/2026**, wherein it was held that the extension of the time period sought by an assessee for furnishing the reply to the notice issued by the AO under section 148A(b) of the Act is to be excluded while considering as to whether the notice under section 148 of the Act is issued within the time limits specified under Section 149 of the Act (as was

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available in the statute prior to its amendment vide Finance Act, 2021, w.e.f. 01/04/2021). For the sake of clarity, we deem it appropriate to cull out the observations of the Hon'ble High Court of Delhi in its aforesaid common order, which read as under:

> "30. The period between 28.03.2024 and 15.04.2024, **during which the matter remained pending on account of adjournments sought by the petitioner, is liable to be excluded in terms of the statutory proviso.** Consequently, the notice dated 15.04.2024 cannot be held to be barred by limitation."
>
> **(emphasis applied by us)**

However, in the case before us, as the assessee appellant has not sought any extension of the time limit as was made available to him for furnishing the reply to the notice under section 148A(b) of the Act, dated 20/03/2022, therefore, the ratio of the aforementioned judgments in the case of **BKR Capital (P.) Ltd. *v.* Income-tax Officer (supra)** and **Rajmani Securities (P.) Ltd. *v.* Income-tax Officer (supra)** will have no bearing on the adjudication of the present appeal before us.

14. Apropos the order of the **Hon'ble Supreme Court** in the case of **Chandra Sekhar vs. Principal Commissioner of Income Tax (2025) 179 taxmann.com 341 (SC)**, as had been relied upon by the Ld. Sr. DR, we find that the same is merely an order dismissing the Special Leave Petition (SLP), i.e., dismissal in limine. For the sake of clarity, we deem it apposite to cull out the order of the Hon'ble Supreme Court, as under:-

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> "**We do not find good ground to interfere with the impugned judgment and order of the High Court. Hence, the Special Leave Petition is dismissed.**"
>
> **(emphasis supplied by us)**

In our view, the declaration of law continues to be that of the Hon'ble High Court of Patna in Chandra Sekhar vs. Principal Commissioner of Income Tax (2025) 173 taxmann.com 591 (Patna), wherein it was observed that for the purpose of limitation under sections 148 and 149 of the Act, the relevant date is the date of initial notice under section 148A(b) of the Act and not the subsequent notice issued seeking information. We are of the view that the Hon'ble Supreme Court, on an SLP having been filed, had not affirmed the view taken by the Hon'ble High Court by a speaking order, but had simply declined to grant leave. We are of the view that the aforesaid order of the Hon'ble Supreme Court which is a dismissal of the SLP by a non-speaking order, would not amount to affirmation of the High Court's reasoning, as a result whereof the doctrine of merger does not get attracted. Our aforesaid view is fortified by the judgment of the **Hon'ble Supreme Court** in the case of **Kunhayammed v. State of Kerala (2000) 245 ITR 360 (SC)** and **Khoday Distilleries Ltd. v. Sri Mahadeshwara Sahakara Sakkare Karkhane Ltd. (2019) 4 SCC 376**. We find that the Hon'ble Apex Court in the case of Khoday Distilleries Ltd. v. Sri Mahadeshwara Sahakara Sakkare Karkhane Ltd. (supra) had, after a cumulative reading of the various judgments, affirmed the conclusions rendered by the three-Judge Bench of the Court in Kunhayammed v. State of Kerala (supra), and observed as under:

"27) From a cumulative reading of the various judgments, we sum up the legal position as under:

(a) The conclusions rendered by the three Judge Bench of this Court in Kunhayammed and summed up in paragraph 44 are affirmed and reiterated.

(b) We reiterate the conclusions relevant for these cases as under:

"(iv) **An order refusing special leave to appeal may be a non-speaking order or a speaking one. In either case it does not attract the doctrine of merger**. **An order refusing special leave to appeal does not stand substituted in place of the order under challenge**. All that it means is that the Court was not inclined to exercise its discretion so as to allow the appeal being filed.

(v) **If the order refusing leave to appeal is a speaking order, i.e., gives reasons for refusing the grant of leave, then the order has two implications.** Firstly, the statement of law contained in the order is a declaration of law by the Supreme Court within the meaning of Article 141 of the Constitution. Secondly, other than the declaration of law, whatever is stated in the order are the findings recorded by the Supreme Court which would bind the parties thereto and also the court, tribunal or authority in any proceedings subsequent thereto by way of judicial discipline, the Supreme Court being the Apex Court of the country. **But, this does not amount to saying that the order of the court, tribunal or authority below has stood merged in the order of the Supreme Court rejecting the special leave petition or that the order of the Supreme Court is the only order binding as res judicata in subsequent proceedings between the parties**.

(vi) **Once leave to appeal has been granted and appellate jurisdiction of Supreme Court has been invoked the order passed in appeal would attract the doctrine of merger; the order may be of reversal, modification or merely affirmation**.

(vii) **On an appeal having been preferred or a petition seeking leave to appeal having been converted into an appeal before the Supreme Court the jurisdiction of High Court to entertain a review petition is lost thereafter as provided by sub-rule (1) of Rule 1 of Order 47 CPC**."

Further, we find that the Hon'ble Supreme Court in the case of Khoday Distilleries Ltd. vs. Sri Mahadeshwara Sahakara Sakkare Karkhane Ltd**.** (supra)**,**

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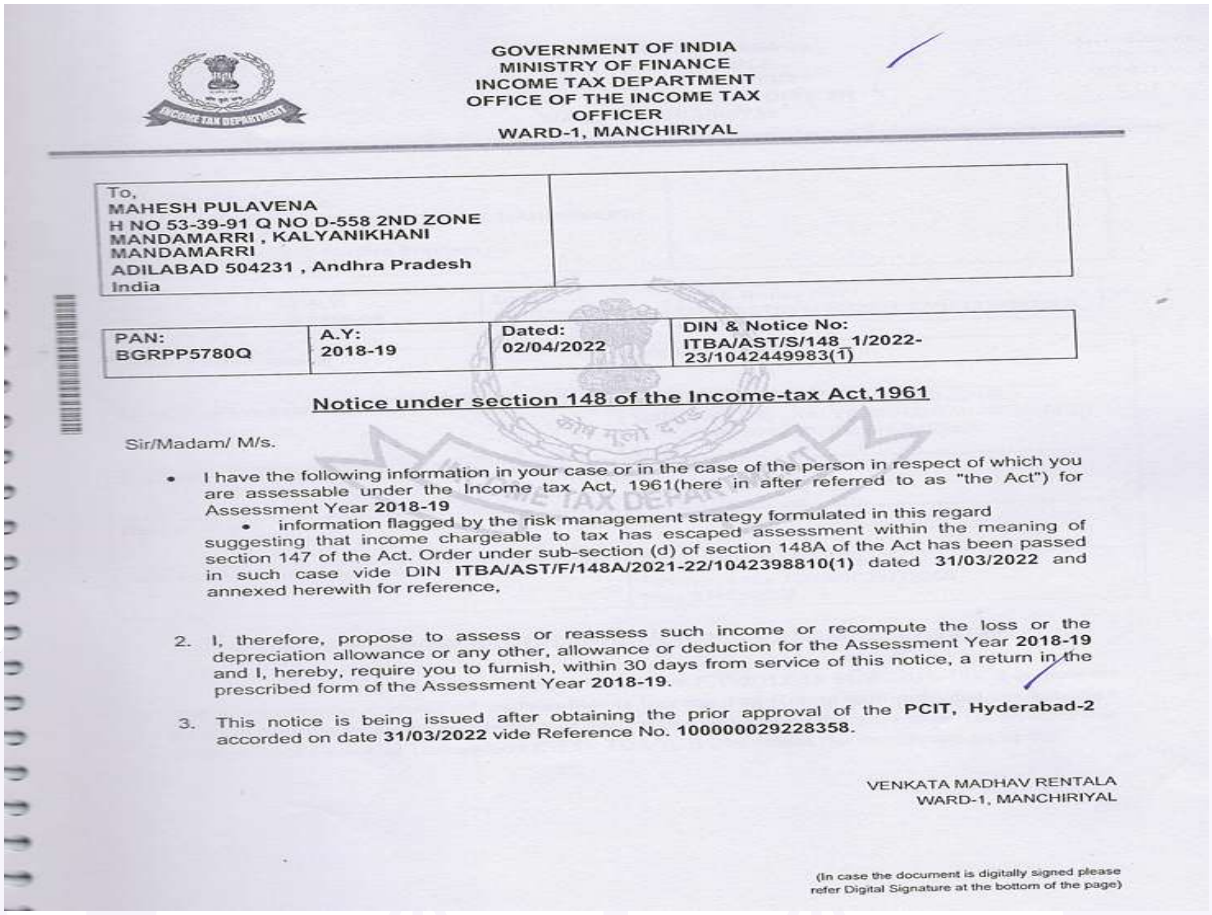
referring to a similar dismissal, had observed that the SLP was dismissed in limine and without any speaking order, and observed as under:

> "Civil appeal arising out of Special Leave Petition (Civil) No.13792 of 2013: In this case, we find that the Special Leave Petition was dismissed with the following order passed on January 05, 2012:-
>
> > **"We find no ground to interfere with the impugned order. The Special Leave Petition is dismissed."**
>
> Here also, the Special Leave Petition was dismissed in limine and without any speaking order."
>
> **(emphasis supplied by us)**

We thus, based on our aforesaid observations are of the view that the dismissal of the Special Leave Petition (SLP) by the **Hon'ble Supreme Court** in **Chandra Sekhar vs. Principal Commissioner of Income Tax (2025) 179 taxmann.com 341 (SC), dated 06/10/2025** is a dismissal of the Special Leave Petition (SLP) in *limine*, and the same will not attract the doctrine of merger.

15. Coming to the facts involved in the case before us, it is a matter of fact discernible from the record that the notice u/s 148 of the Act, dated 02/04/2022, had been issued by the ITO, Ward-6(1), Hyderabad, after obtaining the prior approval of the Pr. Commissioner of Income-Tax, Hyderabad-2, dated 02/04/2022 vide reference No.1000000-29228358. For the sake of clarity, we deem it fit to cull out the notice u/s 148 dated 02/04/2022.

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GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE INCOME TAX OFFICER
WARD-1, MANCHIRIYAL

To,
MAHESH PULAVENA
H NO 53-39-91 Q NO D-558 2ND ZONE
MANDAMARRI , KALYANIKHANI
MANDAMARRI
ADILABAD 504231 , Andhra Pradesh
India

PAN:	A.Y:	Dated:	DIN & Notice No:
BGRPP5780Q	2018-19	02/04/2022	ITBA/AST/S/148_1/2022-23/1042449983(1)

Notice under section 148 of the Income-tax Act,1961

Sir/Madam/ M/s.

- I have the following information in your case or in the case of the person in respect of which you are assessable under the Income tax Act, 1961(here in after referred to as "the Act") for Assessment Year **2018-19**
  - information flagged by the risk management strategy formulated in this regard suggesting that income chargeable to tax has escaped assessment within the meaning of section 147 of the Act. Order under sub-section (d) of section 148A of the Act has been passed in such case vide DIN **ITBA/AST/F/148A/2021-22/1042398810(1)** dated **31/03/2022** and annexed herewith for reference,

2. I, therefore, propose to assess or reassess such income or recompute the loss or the depreciation allowance or any other, allowance or deduction for the Assessment Year **2018-19** and I, hereby, require you to furnish, within 30 days from service of this notice, a return in the prescribed form of the Assessment Year **2018-19**.
3. This notice is being issued after obtaining the prior approval of the **PCIT, Hyderabad-2** accorded on date **31/03/2022** vide Reference No. **100000029228358**.

VENKATA MADHAV RENTALA
WARD-1, MANCHIRIYAL

(In case the document is digitally signed please refer Digital Signature at the bottom of the page)

17. At this stage, it would be relevant to point out that nothing has been placed on our record by the Ld. DR to rebut the aforesaid factual position as had been brought to our notice.

18. Apropos the challenge by the Ld. AR regarding the validity of the jurisdiction assumed by the A.O. for initiating proceedings u/s. 147 of the Act, i.e., without obtaining the approval of the specified authority u/s. 151(ii) of the Act, we find substance in the same. Admittedly, the reassessment proceedings u/s. 147 of the Act had been revamped vide the Finance Act, 2021 w.e.f. 01.04.2021. The substituted Sections 147 to 149 and Section 151 of the Act, applicable w.e.f. 01.04.2021 are culled out as under:

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"**Income escaping assessment-**

147. If any income chargeable to tax, in the case of an assessee, has escaped assessment for any assessment year, the Assessing Officer may, subject to the provisions of sections 148 to 153, assess or reassess such income or recompute the loss or the depreciation allowance or any other allowance or deduction for such assessment year (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year).

Explanation.—For the purposes of assessment or reassessment or recomputation under this section, the Assessing Officer may assess or reassess the income in respect of any issue, which has escaped assessment, and such issue comes to his notice subsequently in the course of the proceedings under this section, irrespective of the fact that the provisions of section 148A have not been complied with.".

Issue of notice where income has escaped assessment

148. Before making the assessment, reassessment or recomputation under section 147, and subject to the provisions of section 148A, the Assessing Officer shall serve on the assessee a notice, along with a copy of the order passed, if required, under clause (d) of section 148A, requiring him to furnish within such period, as may be specified in such notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139:

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

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

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

(ii) any final objection raised by the Comptroller and Auditor General of India to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act.

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

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

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(ii) a survey is conducted under section 133A, other than under subsection (2A) or subsection (5) of that section, on or after the 1st day of April, 2021, in the case of the assessee; or

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

(iv) the Assessing Officer is satisfied, with the prior approval of Principal Commissioner or Commissioner, that any books of account or documents, seized or requisitioned under section 132 or section 132A in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee, the Assessing Officer shall be deemed to have information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the three assessment years immediately preceding the assessment year relevant to the previous year in which the search is initiated or books of account, other documents or any assets are requisitioned or survey is conducted in the case of the assessee or money, bullion, jewellery or other valuable article or thing or books of account or documents are seized or requisitioned in case of any other person. Explanation 3.—For the purposes of this section, specified authority means the specified authority referred to in section 151."

Conducting inquiry, providing opportunity before issue of notice under section 148-

"148A. The Assessing Officer shall, before issuing any notice under section 148,—

(a) conduct any enquiry, if required, with the prior approval of specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment;

(b) provide an opportunity of being heard to the assessee, with the prior approval of specified authority, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than seven days and but not exceeding thirty days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per clause (a);

(c) consider the reply of assessee furnished, if any, in response to the showcause notice referred to in clause (b);

(d) decide, on the basis of material available on record including reply of the assessee, whether or not it is a fit case to issue a notice under section 148, by passing an order, with the prior approval

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of specified authority, within one month from the end of the month in which the reply referred to in clause (c) is received by him, or where no such reply is furnished, within one month from the end of the month in which time or extended time allowed to furnish a reply as per clause (b) expires:

Provided that the provisions of this section shall not apply in a case where,—

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

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

(c) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any books of account or documents, seized in a search under section 132 or requisitioned under section 132A, in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee.

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

Time limit for notice-

"149. (1) No notice under section 148 shall be issued for the relevant assessment year,—

(a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);

(b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more for that year:

Provided that no notice under section 148 shall be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April, 2021, if such notice could not have been issued at that time on account of being beyond the time limit specified under the provisions of clause (b) of subsection (1) of this section, as they stood immediately before the commencement of the Finance Act, 2021:

Provided further that the provisions of this subsection shall not apply in a case, where a notice under section 153A, or section 153C read with section 153A, is required to be issued in relation to a search initiated under section 132 or books of account, other documents or any

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assets requisitioned under section 132A, on or before the 31st day of March, 2021:

Provided also that for the purposes of computing the period of limitation as per this section, the time or extended time allowed to the assessee, as per show cause notice issued under clause (b) of section 148A or the period during which the proceeding under section 148A is stayed by an order or injunction of any court, shall be excluded:

Provided also that where immediately after the exclusion of the period referred to in the immediately preceding proviso, the period of limitation available to the Assessing Officer for passing an order under clause (d) of section 148A is less than seven days, such remaining period shall be extended to seven days and the period of limitation under this subsection shall be deemed to be extended accordingly.

Explanation.—For the purposes of clause (b) of this subsection, "asset" shall include immovable property, being land or building or both, shares and securities, loans and advances, deposits in bank account.

(2) The provisions of subsection (1) as to the issue of notice shall be subject to the provisions of section 151.'

Sanction for issue of notice-

"151. Specified authority for the purposes of section 148 and section 148A shall be—

(i) Principal Commissioner or Principal Director or Commissioner or Director, if three years or less than three years have elapsed from the end of the relevant assessment year;

(ii) Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General, if more than three years have elapsed from the end of the relevant assessment year."

19. The **Hon'ble Apex Court** in the case of **Union of India & Ors. Vs. Ashish Agrawal, Civil Appeal No.3005/2022, dated 04.05.2022**, after deliberating at length on the aforesaid amended provisions had, inter alia, observed as under:

"5. We have heard Shri N. Venkataraman, learned ASG appearing on behalf of the Revenue and Shri C.A. Sundaram and Shri S. Ganesh, learned Senior Advocates and other learned counsel appearing on behalf of the respective assessee.

6. It cannot be disputed that by substitution of sections 147 to 151 of the Income Tax Act (IT Act) by the Finance Act, 2021, radical and reformative changes are made governing the procedure for reassessment proceedings. Amended sections 147 to 149 and section 151 of the IT

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Act prescribe the procedure governing initiation of reassessment proceedings. However, for several reasons, the same gave rise to numerous litigations and the reopening were challenged inter alia, on the grounds such as (1) no valid "reason to believe" (2) no tangible/reliable material /information in possession of the assessing officer leading to formation of belief that income has escaped assessment, (3) no enquiry being conducted by the assessing officer prior to the issuance of notice; and reopening is based on change of opinion of the assessing officer and (4) lastly the mandatory procedure laid down by this Court in the case of GKN Driveshafts (India) Ltd. Vs. Income Tax Officer and ors; (2003) 1 SCC 72, has not been followed.

6.1 Further pre Finance Act, 2021, the reopening was permissible for a maximum period up to six years and in some cases beyond even six years leading to uncertainty for a considerable time. Therefore, Parliament thought it fit to amend the Income Tax Act to simplify the tax administration, ease compliances and reduce litigation. Therefore, with a view to achieve the said object, by the Finance Act, 2021, sections 147 to 149 and section 151 have been substituted.

6.2 Under the substituted provisions of the IT Act vide Finance Act, 2021, no notice under section 148 of the IT Act can be issued without following the procedure prescribed under section 148A of the IT Act. Along with the notice under section 148 of the IT Act, the assessing officer (AO) is required to serve the order passed under section 148A of the IT Act. section 148A of the IT Act is a new provision which is in the nature of a condition precedent. Introduction of section 148A of the IT Act can thus be said to be a game changer with an aim to achieve the ultimate object of simplifying the tax administration, ease compliance and reduce litigation.

6.3 But prior to pre-Finance Act, 2021, while reopening an assessment, the procedure of giving the reasons for reopening and an opportunity to the assessee and the decision of the objectives were required to be followed as per the judgment of this Court in the case of GKN Driveshafts (India) Ltd. (supra).

6.4 However, by way of section 148A, the procedure has now been streamlined and simplified. It provides that before issuing any notice under section 148, the assessing officer shall (i) conduct any enquiry, if required, with the approval of specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment; (ii) provide an opportunity of being heard to the assessee, with the prior approval of specified authority; (iii) consider the reply of the assessee furnished, if any, in response to the showcause notice referred to in clause (b); and (iv) decide, on the basis of material available on record including reply of the assessee, as to whether or not it is a fit case to issue a notice under section 148 of the IT Act and (v) the AO is required to pass a specific order within the time stipulated.

6.5 Therefore, all safeguards are provided before notice under section 148 of the IT Act is issued. At every stage, the prior approval of the

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specified authority is required, even for conducting the enquiry as per section 148A(a). Only in a case where, the assessing officer is of the opinion that before any notice is issued under section 148A(b) and an opportunity is to be given to the assessee, there is a requirement of conducting any enquiry, the assessing officer may do so and conduct any enquiry. Thus if the assessing officer is of the opinion that any enquiry is required, the assessing officer can do so, however, with the prior approval of the specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment.

6.6 Substituted section 149 is the provision governing the time limit for issuance of notice under section 148 of the IT Act. The substituted section 149 of the IT Act has reduced the permissible time limit for issuance of such a notice to three years and only in exceptional cases ten years. It also provides further additional safeguards which were absent under the earlier regime preFinance Act, 2021.

7. Thus, the new provisions substituted by the Finance Act, 2021 being remedial and benevolent in nature and substituted with a specific aim and object to protect the rights and interest of the assessee as well as and the same being in public interest, the respective High Courts have rightly held that the benefit of new provisions shall be made available even in respect of the proceedings relating to past assessment years, provided section 148 notice has been issued on or after 1st April, 2021. We are in complete agreement with the view taken by the various High Courts in holding so.

8. However, at the same time, the judgments of the several High Courts would result in no reassessment proceedings at all, even if the same are permissible under the Finance Act, 2021 and as per substituted sections 147 to 151 of the IT Act. The Revenue cannot be made remediless and the object and purpose of reassessment proceedings cannot be frustrated. It is true that due to a bonafide mistake and in view of subsequent extension of time vide various notifications, the Revenue issued the impugned notices under section 148 after the amendment was enforced w.e.f. 01.04.2021, under the unamended section 148. In our view the same ought not to have been issued under the unamended Act and ought to have been issued under the substituted provisions of sections 147 to 151 of the IT Act as per the Finance Act, 2021. There appears to be genuine nonapplication of the amendments as the officers of the Revenue may have been under a bonafide belief that the amendments may not yet have been enforced. Therefore, we are of the opinion that some leeway must be shown in that regard which the High Courts could have done so. Therefore, instead of quashing and setting aside the reassessment notices issued under the unamended provision of IT Act, the High Courts ought to have passed an order construing the notices issued under unamended Act/unamended provision of the IT Act as those deemed to have been issued under section 148A of the IT Act as per the new provision section 148A and the Revenue ought to have been permitted to proceed further with the reassessment proceedings as per the substituted provisions of sections 147 to 151 of

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the IT Act as per the Finance Act, 2021, subject to compliance of all the procedural requirements and the defences, which may be available to the assessee under the substituted provisions of sections 147 to 151 of the IT Act and which may be available under the Finance Act, 2021 and in law. Therefore, we propose to modify the judgments and orders passed by the respective High Courts as under:

(i) The respective impugned section 148 notices issued to the respective assessees shall be deemed to have been issued under section 148A of the IT Act as substituted by the Finance Act, 2021 and treated to be showcause notices in terms of section 148A(b). The respective assessing officers shall within thirty days from today provide to the assessees the information and material relied upon by the Revenue so that the assessees can reply to the notices within two weeks thereafter;

(ii) The requirement of conducting any enquiry with the prior approval of the specified authority under section 148A(a) be dispensed with as a onetime measure visàvis those notices which have been issued under Section 148 of the unamended Act from 01.04.2021 till date, including those which have been quashed by the High Courts;

(iii) The assessing officers shall thereafter pass an order in terms of section 148A(d) after following the due procedure as required under section 148A(b) in respect of each of the concerned assessees;

(iv) All the defences which may be available to the assessee under section 149 and/or which may be available under the Finance Act, 2021 and in law and whatever rights are available to the Assessing Officer under the Finance Act, 2021 are kept open and/or shall continue to be available and;

(v) The present order shall substitute/modify respective judgments and orders passed by the respective High Courts quashing the similar notices issued under unamended section 148 of the IT Act irrespective of whether they have been assailed before this Court or not.

9. There is a broad consensus on the aforesaid aspects amongst the learned ASG appearing on behalf of the Revenue and the learned Senior Advocates/learned counsel appearing on behalf of the respective assessees.

We are also of the opinion that if the aforesaid order is passed, it will strike a balance between the rights of the Revenue as well as the respective assesses as because of a bonafide belief of the officers of the Revenue in issuing approximately 90000 such notices, the Revenue may not suffer as ultimately it is the public exchequer which would suffer.

Therefore, we have proposed to pass the present order with a view avoiding filing of further appeals before this Court and burden this Court with approximately 9000 appeals against the similar judgments and orders passed by the various High Courts, the particulars of some of which are referred to hereinabove. We have also proposed to pass the aforesaid order in exercise of our powers under Article 142 of the Constitution of India by holding that the present order shall govern, not

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only the impugned judgments and orders passed by the High Court of Judicature at Allahabad, but shall also be made applicable in respect of the similar judgments and orders passed by various High Courts across the country and therefore the present order shall be applicable to PAN INDIA.

10. In view of the above and for the reasons stated above, the present Appeals are ALLOWED IN PART. The impugned common judgments and orders passed by the High Court of Judicature at Allahabad in W.T. No. 524/2021 and other allied tax appeals/petitions, is/are hereby modified and substituted as under:

(i) The impugned section 148 notices issued to the respective assessees which were issued under unamended section 148 of the IT Act, which were the subject matter of writ petitions before the various respective High Courts shall be deemed to have been issued under section 148A of the IT Act as substituted by the Finance Act, 2021 and construed or treated to be showcause notices in terms of section 148A(b). The assessing officer shall, within thirty days from today provide to the respective assessees information and material relied upon by the Revenue, so that the assesees can reply to the showcause notices within two weeks thereafter;

(ii) The requirement of conducting any enquiry, if required, with the prior approval of specified authority under section 148A(a) is hereby dispensed with as a onetime measure visàvis those notices which have been issued under section 148 of the unamended Act from 01.04.2021 till date, including those which have been quashed by the High Courts. Even otherwise as observed hereinabove holding any enquiry with the prior approval of specified authority is not mandatory but it is for the concerned Assessing Officers to hold any enquiry, if required;

(iii) The assessing officers shall thereafter pass orders in terms of section 148A(d) in respect of each of the concerned assessees; Thereafter after following the procedure as required under section 148A may issue notice under section 148 (as substituted);

(iv) All defences which may be available to the assesses including those available under section 149 of the IT Act and all rights and contentions which may be available to the concerned assessees and Revenue under the Finance Act, 2021 and in law shall continue to be available.

11. The present order shall be applicable PAN INDIA and all judgments and orders passed by different High Courts on the issue and under which similar notices which were issued after 01.04.2021 issued under section 148 of the Act are set aside and shall be governed by the present order and shall stand modified to the aforesaid extent. The present order is passed in exercise of powers under Article 142 of the Constitution of India so as to avoid any further appeals by the Revenue on the very issue by challenging similar judgments and orders, with a view not to burden this Court with approximately 9000 appeals. We also observe that present order shall also govern the pending writ petitions, pending before various High Courts in which similar notices under Section 148 of the Act issued after 01.04.2021 are under challenge.

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> 12. The impugned common judgments and orders passed by the High Court of Allahabad and the similar judgments and orders passed by various High Courts, more particularly, the respective judgments and orders passed by the various High Courts particulars of which are mentioned hereinabove, shall stand modified/substituted to the aforesaid extent only.
>
> All these appeals are accordingly partly allowed to the aforesaid extent.
>
> In the facts of the case, there shall be no order as to costs."
>
> **(emphasis supplied by us)**

20. Apart from that, we find that the CBDT vide Instruction No.01/2022 while directing implementation of the judgment of the **Hon'ble Supreme Court** in the case of **Union of India & Ors Vs. Ashish Agrawal, Civil Appeal No.3005/2022, dated 04.05.2022**, had, while laying down the procedure that is required to be followed by the jurisdictional Assessing Officers/Assessing Officer, inter alia, held that if it is a fit case to issue notice u/s. 148 of the Act, the Assessing Officer shall serve on the assessee a notice u/s 148 after obtaining approval of the specified authority u/s. 151 of the new law.

21. At this stage, we may herein observe that our aforesaid view that in a case where a period of more than three years have elapsed from the end of the relevant assessment year, then, approval for issuing the notice under section 148 of the Act has to be taken from the Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General for issuing the notice under section 148 of the Act is supported by the recent judgment of the **Hon'ble Jurisdictional High Court of Telangana** in **Deloitte Consulting India Private Limited vs. The Assessment Unit, Income Tax Department,**

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Civil Writ Petition No. 4061 of 2024, dated 25/09/2025. For the sake of clarity, we deem it apposite to cull out the observations of the Hon'ble jurisdictional High Court in the case of Deloitte Consulting India Private Limited vs. The Assessment Unit, Income Tax Department (supra), as under:

> "48. The proviso to Section 151 has been introduced by the Finance Act, 2023 with effect from 01.04.2023. The relevant Section 151 with its proviso is applicable to the case of the petitioner is quoted hereunder:
>
> 151. Sanction for issue of notice:- Specified authority for the purposes of Section 148 and Section 148A shall be,-
>
> (i) Principal Commissioner or Principal Director or Commissioner or Director, if three years or less than three years have elapsed from the end of the relevant assessment year;
>
> (ii) Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General, if more than three years have elapsed from the end of the relevant assessment year:
>
> Provided that the period of three years for the purposes of clause (i) shall be computed after taking into account the period of limitation as excluded by the third or fourth or fifth provisos or extended by the sixth proviso to sub-section (1) of Section 149.
>
> 49. In the present case, the order under Section 148A(d) and notice under Section 148 have been issued on 07.04.2022 relatable to the relevant Assessment Year 2018- 19 i.e., after more than three years from the end of the relevant assessment year. **The approval before passing the order under Section 148A(d) of the Act and before issuing of notice under Section 148 of the Act has been taken from the Principal Commissioner of Income Tax by the respondent No.1, which is permissible only if three years or less than three years have lapsed from the end of the relevant assessment year. In the present case, the relevant three years lapsed on 31.03.2022. Therefore, the prior approval of the Principal Chief Commissioner or Principal Director General or the Chief Commissioner or the Director General was required to be obtained before passing of the order under Section 148A(d) or before issuance of the notice under Section 148 of the Act.**
>
> 50. Learned counsel for the respondent has relied upon the proviso to Section 151 of the Act inserted by the Finance Act, 2023 with effect from 01.04.2023 quoted above to contend that the period of seven days furnished to the assessee to submit reply to the notice under Section 148A(b) issued on 23.03.2022 has to be excluded for counting the period of three years. It is submitted that the proviso is clarificatory in nature and as such, it would operate from the date when the amended Section 151 was brought into force i.e., 01.04.2021. **However, such a**

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contention is fit to be rejected since the proviso to Section 151 has been inserted by the Finance Act, 2023 only with effect from 01.04.2023. It, therefore, cannot be applied retrospectively to exclude the period of seven days in furnishing the reply to the notice under Section 148A(b) of the Act by the assessee.

The Assessing Officer could not have assumed exclusion of such a period while passing the order under Section 148A(d) of the Act or issuing notice under Section 148 of the Act on 07.04.2022 that such a proviso excluding the period consumed in furnishing the reply is going to be brought into the statute book by amendment by the Finance Act, 2023 with effect from 01.04.2023. In taxing statutes, intendment cannot be assumed unless specifically expressed in the provision enacted by the legislature. Therefore, the reopening of assessment without sanction/approval of the specified authority in accordance with Section 151 of the Act was bad in law. Consequently, reassessment order dated 16.01.2024 also is bad in law."

(emphasis supplied by us)

22. We find that the Hon'ble High Court in its aforesaid order had not only observed that in the case of the assessee before them, i.e., for AY 2018-19 the specified authority for granting approval under section 151 of the Act was the Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General as a period of more than three years had lapsed from the end of the relevant Assessment Year, but had also rejected the claim of the revenue that the "proviso" to section 151 of the Act as had been made available on the statute vide the Finance Act, 2023 w.e.f. 01/04/2023 was to be given a retrospective effect. Apart from that, we find that the **Hon'ble Supreme Court** in its recent order passed in the case of **Assistant Commissioner of Income-tax, International Taxation vs. LinkedIn Singapore Pte. Ltd (2025) 180 taxmann.com 158 (SC)** had dismissed the Special Leave Petition (SLP) filed by the revenue against the order of the High Court, that had quashed the order

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passed by the AO under section 148A(d) and the impugned notice under section 148 of the Act for the reason that the approval for reassessment proceedings was granted by the Commissioner of Income Tax after expiry of 03 years from the end of the relevant assessment year, which approval should have been granted by the Principal Chief Commissioner of Income Tax.

23. We, thus, in terms of our aforesaid observation, concur with the Ld. AR that in the present case before us for A.Y. 2018-19, wherein notice under Section 148 of the Act was issued on 02/04/2022, i.e., beyond a period of three years from the end of the assessment year, the A.O. was statutorily obligated to have obtained the approval from either of the authorities specified u/s. 151(ii) (as was then available on the statute), viz. Principal Chief Commissioner or Principal Director General or, where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General. However, as the A.O. had obtained the approval from the Pr. Commissioner of Income Tax, Hyderabad-2, an authority who was not vested with any jurisdiction as per the mandate of Section 151 of the Act (as made available on the statute w.e.f 01.04.2021), therefore, the assessment so framed by him u/s.147 r.w.s. 144 r.w.s 144B of the Act, dated 13/12/2023, being devoid and bereft of any valid assumption of jurisdiction, is liable to be quashed. Accordingly, we quash the assessment framed by the A.O. under Section 147 r.w.s 144 r.w.s. 144B of the Act, dated 13/12/2023, in terms of our aforesaid observations.

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24. As we have quashed the assessment framed by the A.O. under Section 147 r.w.s. 144 r.w.s 144B of the Act, dated 13/12/2023, for want of a valid assumption of jurisdiction for issuing notice u/s. 148 of the Act, therefore, we refrain from adverting to and dealing with the other contentions based on which the assessment order has been challenged before us, which, thus, are left open.

25. In the result, the appeal filed by the assessee is allowed in terms of our aforesaid observations.

Order pronounced in the open court on 16th October, 2026.

Sd/-	Sd/-
MADHUSUDAN SAWDIA	**RAVISH SOOD**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Hyderabad
Dated: 16th October, 2026.
OKK/SPS

Copy to:

1	**MAHESH PULAVENI,** **H NO 53-39-91, Q NO D-558, 2ND ZONE,** **MANDAMARRI, KALYANIKHANI,** **ADILABAD-504231,** **TELANGANA**
2	**ITO, WARD -11(1),** **SIGNATURE TOWERS, SY.NO.6(P) OF** **KONDAPUR SY.37(P) OF KOTHAGUDA,** **OPP. BOTANICAL GARDENS,** **HYDERABAD-, TELANGANA**
3	THE PCIT / CIT, HYDERABAD.
4	THE D.R., ITAT, HYDERABAD BENCH
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