IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HON'BLE SRI JUSTICE P.SAM KOSHY

AND

THE HON'BLE SRI JUSTICE SUDDALA CHALAPATHI RAO

WP.No.12288 of 2023

Dt.23.04.2026

Between:

Piramal Swasthya Management and
Research Institute

....Petitioner

and

Assistant Commissioner of Income Tax
and another.

...Respondents

O R D E R: *(Per the **Hon'ble Sri Justice Suddala Chalapathi Rao**)*

The present writ petition has been filed for the following reliefs:

> *"to issue writ, order or direction, (i) quashing the order, dt.31.03.2023, bearing No.ITBA/ AST/F/148A/2022-23/105180606401(1) passed under Section 148A(d) of the Act(Annexure P9); (ii) quashing the notice, dt.31.03.2023, bearing No.ITBA/AST/S/148_1/2022-23/1051806617(1) issued under Section 148 of the Act (Annexure 10) and (iii) pass such other or further orders as this Court may deem fit in the facts and circumstances of the case, in the interest of justice and equity".*

2. The brief facts of the case are that the petitioner is a society registered under the AP Societies Registration Act, 2001 and is also registered under Section 12A of the Income Tax Act, 1961 (for short, "the Act"), established with the main object of carrying out extensive studies and research into various aspects relating to health services, besides managing health-related programmes for Government departments and other organizations with a view to improving access to quality healthcare. Further, during the financial year 2016-17, the petitioner launched several community outreach programmes in the States of Andhra Pradesh, Assam, Rajasthan and Telangana, in collaboration with the respective State Governments.

3. For the assessment year 2017-18, the petitioner filed its return of income declaring nil income and claimed a refund of Rs.7,29,68,048/-, and the petitioner had accumulated an amount of Rs.3,43,34,021/- and claimed exemption under Section 11(2) of the Act.

4. It is further contended that so as to claim benefit under Section 11(2) of the Act, with effect from 01.04.2016, for the financial year 2016-17, under Rule 17 of the Income Tax Rules,

1962 (hereinafter referred to as "the Rules") filing of Form 10 electronically was mandatory within the stipulated time allowed for filing the return of income under Section 139(1) of the Act, but due to oversight, as the said requirement was introduced in the very same financial year, the petitioner did not file Form 10 electronically along with the return of income, nonethless the same had been prepared manually well before the filing of the return.

5. It is further stated that the 1st respondent taken up the case of the petitioner for scrutiny for the Assessment Year 2017-18, and issued a notice, dt.13.08.2018, under Section 143(2) of the Act calling upon the petitioner to produce all evidence in support of the return of income filed, and in response thereto, the petitioner furnished all the necessary documents, and insofar as submission of Form 10, the petitioner, on specific discussion with the 1st respondent, uploaded the same subsequiently, though it was prepared manually prior to filing of the return of income.

6. Further, the 1st respondent, issued a notice, dt.18.01.2019, under Section 142(1) of the Act calling upon the petitioner to furnish various documents/information, including specific details

relating to filing of Form 10 and the deposits thereunder, to claim the benefit under Sections 11(2) and 11(5) of the Act, and the petitioner submitted a detailed reply on 24.01.2019 along with all supporting documents and explanation relating to the amount set aside/accumulated along with the bank accounts in which such amounts were deposited. It was specifically urged that the accumulated funds were invested in fixed deposits and savings bank accounts in scheduled banks, which satisfied the requirements of Sections 11(2) and 11(5) of the Act, and a copy of Form 10 was furnished along with the said reply.

7. Further, the 1st respondent had specifically examined the issue relating to non-filing of Form 10 electronically in pursuance of Rule 17(2) and (3) of the Rules, as well as in compliance of investments in terms of Section 11(5) of the Act, granted a personal hearing on 06.03.2019, and upon examination of the explanation submitted by the petitioner along with the documents and information, along with Form 10 filed manually, completed the assessment under Section 143(3) of the Act *vide* order dt.26.07.2019, by accepting the return of income.

8. While matters stood thus, the 1st respondent having completed the assessment, *vide* the assessment order dt.26.07.2019, after a period of four years from the end of the relevant Assessment Year(2017-18), issued a notice, dt.27.02.2023, under Section 148A(b) of the Act, directing the petitioner to show cause as to why a notice under Section 148 of the Act should not be issued stating that certain income had escaped assessment. In the said notice it was stated that as per Rule 17 of the Rules, Form 10 was required to be electronically submitted along with the return of income and since the same was not electronically transmitted, as such, the petitioner was not eligible for the benefit under Section 11(2) r/w Section 11(5) of the Act, and accordingly, the amount of Rs.3,43,34,021/- set apart under Section 11(2) was proposed to be added to the total income.

9. In response to the said notice, the petitioner submitted a detailed reply, dt.07.03.2023, *inter alia* contending that the assessment proceedings under Section 143(3) of the Act had already been concluded by order, dt.26.07.2019, and that the issue relating to filing of Form 10, including its electronic transmission under Section 17(2) & (3) of the Act, had been

examined during the original assessment proceedings by accepting the physical filing of the same, by the then assessing officer, and further, once the assessment was completed and orders were passed, the very same authority cannot reopen the same, as it amounts to reviewing its own order, which is impressible under law.

10. Further, in support of the said contentions, the petitioner had placed reliance on the judgment of the Hon'ble Supreme Court in the case of ***CIT v. Nagpur Hotels Owners Association***[1] and contends that once the requirements under the Act are fulfilled before the completion of the assessment proceedings, the petitioner is entitled to claim benefit under Sections 11(2) & (5) of the Act.

11. It is further stated that the 1st respondent failed to appreciate the law laid down by the Hon'ble Supreme Court in ***Nagpur Hotels Owners Association***'s case (supra), passed the impugned order dt.31.03.2023 under Section 148A(d) of the Act bearing No. ITBA/AST/F/148A/2022-23/ 105180606401(1) and consequently issued notice bearing No. ITBA/AST/S/148_1/2022-

[1] (2001) 247 ITR 201

23/1051806617(1), under Section 148 of the Act on the same day of 31.03.2023, which are challenged in the present writ petition.

12. The 1st respondent filed counter affidavit contending that the assessment for the year 2017-18 was originally completed under Section 143(3) of the Act on 26.07.2019 and subsequently, a revenue audit objection was raised on the ground that the petitioner had filed Form 10 (statement for accumulation under Section 11(2)) in offline mode during the scrutiny proceedings, whereas the law mandates that it must be filed electronically before filing the return of income. Further, it is stated that based on the said audit objection, a notice under Section 148A(d) of the Act was issued on 27.02.2023 to the petitioner, and after considering the petitioner's response, the order under Section 148A(d), dt.31.03.2023 was passed, recording the satisfaction that income chargeable to tax had escaped assessment on the following grounds:

a) The benefit of accumulation under Section 11(2) can only be allowed to the extent of investments made during the year of accumulation, whereas the petitioner claimed benefits from deposits made in earlier years;

b) Form 10 was filed offline and not electronically prior to the filing of the return of income; and

c) The income alleged to have escaped assessment is Rs.3,43,34,021/-, which exceeds Rs.50 lakhs and is represented in the form of assets, thereby attracting the extended limitation under Section 149(1)(b) of the Act.

13. It was further contended that, in view of the above, as proper procedure was followed, the impugned proceedings are not vitiated by law, and the notice under Section 148 has been validly issued for reopening the case under Section 147 of the Act, as such, there is no legal impediment in the impugned proceedings, and the writ petition is devoid of merit and liable to be dismissed.

14. Heard Sri T. Suryanarayana, learned Senior Counsel representing Sri K. Raghavendra Rao, learned counsel for petitioner, Sri A. Ramakrishna Reddy, learned Standing Counsel for respondent No.1, and Sri Vijay K. Punna, learned Senior Standing Counsel for respondents No.2.

15. Learned Senior Counsel, while reiterating the writ averments contended that as the impugned order, along with the consequential notice issued under Section 148 of the Act, having been passed after a lapse of more than four years from the end of

the relevant assessment year, are in violation of the statutory stipulation of revision.

16. It is further contended that the 1st respondent had no jurisdiction to review the earlier orders passed by the very same level of authority on 26.07.2019, and thus, the writ petition is maintainable, and this Court has ample jurisdiction and authority to entertain the same in view of the settled principles of law as enunciated by the Hon'ble Supreme Court in the case of ***Assistant Commissioner (CT), LTU, Kakinada & Ors. vs. M/s. Glaxo Smith Kline Consumer Health Care Limited***[2] *and* ***Nagpur Hotels Owners Association***'s case (supra).

17. On the other hand, Sri Vijay K. Punna, learned Senior Standing Counsel, along with learned Standing Counsel Sri A. Ramakrishna Reddy, appearing for respondent No.1, would contend that the reopening of the petitioner's case is covered under Explanation I(ii) to Section 148, as inserted by the Finance Act, 2022, which deems any audit objection suggesting improper assessment to constitute valid "information" for the purpose of Section 147 proceedings. It is also contended that, under Section

[2] 2020 (19) SCC 681

149(1)(b), since the alleged escapement exceeds Rs.50 lakhs, the respondent authorities have jurisdiction, and the impugned show-cause notice along with the subsequent proceedings have been issued within the prescribed limitation.

18. Having given earnest consideration to the submissions made by the learned counsel appearing for the respective parties, perused the material on record.

19. In the above factual matrix, the points which fall for consideration before this Court are:

1. Whether the impugned proceeding, dt.31.03.2023, amounts to a review of the earlier assessment order passed by the very same authority on 26.07.2019; and
2. Whether the fact that Form 10, which is mandated to be electronically transmitted under Rule 17(2) & (3) of the Income Tax Rules, 1962, was not electronically filed, has any impact on the reopening of proceedings, when the said form had already been verified and accepted by the assessment authorities in the earlier assessment order, dt.26.07.2019.

20. In the light of the points framed as above, the main grievance of the learned Senior Counsel for the petitioner is that once Form 10 was examined, albeit filed manually, and accepted by the authorities as correct and valid, resulting the assessment

proceedings being completed and order, dt.26.07.2019, was passed, and the very same authority cannot re-open or review the same order, and thus, the impugned proceedings are bad in law.

21. It is an admitted fact that while Form 10 was required to be electronically submitted under Rule 17(2) & (3) of the Income Tax Rules, 1962, this requirement came into effect from the very assessment year 2017-18(FY 2016-17) in question. Since the Form 10 was not electronically transmitted before filing the return, the petitioner had filed the same manually along with the return. Further, the petitioner, in paras 14, 15 & 16 of its letter, dt.24.01.2019, addressed to the Assistant Commissioner of Income Tax (Exemptions), had clearly stated this fact. Subsequently, in response to a notice, dt.18.01.2019, issued by the 1st respondent, the petitioner uploaded Form 10, which was acknowledged by the 1st respondent *vide* acknowledgment No.24011911109655, and the 1st respondent by duly examining the return of income for the relevant assessment year, and having satisfied with the same, has completed the assessment and passed the assessment order, dt.26.07.2019.

22. Further, once the assessment proceedings are completed and assessment order is passed, the 1st respondent cannot reopen the assessment proceedings by issuing the impugned show-cause notice, dt.27.02.2023, alleging that Form 10 had not been electronically submitted, thereby disentitling the petitioner to the benefit of Sections 11(2) and 11(5) of the Act in respect of the amount of Rs.3,43,34,021/-, and thus, the impugned show-cause notice is untenable, for the simple reason that the return of income, along with Form 10, though filed manually, was duly examined and accepted by the assessment authorities at the time of the original assessment order, dt.26.07.2019, pursuant to which, the assessment proceedings were completed, in all respects and the order was validly passed, and the assessment officer once accepts the manually submitted Form 10 and completes the assessment, reopening of the said completed assessment would amount to review, which is impermissible under law. Thus, the contention of the learned Senior Standing Counsel as the Form 10 was not electronically submitted as mandated under Rules 17(2) & (3), the earlier assessment is liable to reopened, does not hold merit and is negated.

23. It is settled principle of law that an Assessing Officer cannot review an order already passed by the very same authority, it amounts to change of opinion or review, which is impermissible under law. This principle was upheld by the Hon'ble Supreme Court in ***Nagpur Hotels Owners Association***'s case (supra).

24. In view of the above findings, we are of the considered view that the impugned proceeding, dated 31.03.2023, amount to a review of the earlier assessment order, dt.26.07.2019, passed by the very same authority. Thus, in our considered view, the impugned order suffers from gross illegality, vitiated by law, perverse, and is liable to set aside. Thus, the points framed by this Court are answered in favour of the petitioner and against the respondents.

25. Accordingly, the Writ Petition is allowed and the impugned order, dt.31.03.2023, bearing No.ITBA/AST/S/148_1/2022-23/ 1051806617(1), and the consequential order, dt.31.03.2023, bearing No.ITBA/AST/F/148A/2022-23/ 105180606401(1) are hereby set aside and quashed. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

_____

P.SAM KOSHY, J

_____

SUDDALA CHALAPATHI RAO, J

23rd April, 2026

gra