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 NARSING RAO NANDIKONDA

WRIT PETITION No.24088 of 2026

DATE: 11.08.2026

Between:
Nitin Enterprises.

…Petitioner

AND

Income-tax Officer, Ward - 5(1), Hyderabad,
I.T. Towers, AC Guards, Masab Tank and 2 Others.

…Respondents

ORDER: *(per Hon'ble Sri Justice P.Sam Koshy)*

Heard Ms. Rutuja Pawar, learned counsel representing Mr. Dundu Sashank Manmohan, learned counsel for the petitioner; and Mr. Kamasuni Sudhakar Reddy, learned Senior Standing Counsel for Income Tax Department appearing on behalf of the respondents.

2. The instant Writ Petition under Article 226 of the Constitution of India has been filed by the petitioner praying the Court to grant the following relief:-

> *"………to issue an appropriate writ order or direction more particularly one in the nature of Writ of Certiorari, or any other appropriate writ, calling for the records pertaining to the impugned Show Cause Notice dated 26.03.2026 issued u/s. 148A(1) of the Act, the Order dated 24.06.2026 passed u/s. 148A(3) of the Act and the consequential Notice dated 24.06.2026 issued u/s. 148 of the Act for the Assessment Year 2024-25, and after examining the legality and validity thereof, be pleased to quash and set aside the same as being without jurisdiction, illegal, arbitrary, contrary to the provisions of Sections 147, 148, 148A, 149, 151 and 152(3) of the Act, violative of the principles of natural justice and otherwise unsustainable in law, and pass such further or other order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."*

3. The facts of the case in brief are that the petitioner is a partnership firm engaged in the business of trading in electrical fittings and retail, having its office at Hyderabad. Respondent No.1 / Jurisdictional Assessing Officer issued the show cause notice dated 26.03.2026 under Section 148A(1) of the Act, for the assessment year 2024-25, and thereafter passed the impugned order dated 24.06.2026 under Section 148A(3) of the Act, and consequently issued the notice also on the same date i.e. 24.06.2026 under Section 148 of the Act. Respondent No.2 / Joint Commissioner of Income Tax alleged to be the specified authority under Section 151 of the Act had accorded approval on 24.06.2026 for issuance of the notice under Section 148 of the Act.

4. For the assessment year 2024-25, the petitioner had filed its return of income on 04.10.2024 declaring a total income of Rs.21,01,230/-, which return came to be processed and accepted by way of an Intimation Order under Section 143(1) of the Act. Subsequently, on 22.12.2023 a search and seizure action under Section 132 of the Act was conducted in the case of M/s. Polycab India Limited and its group concerns. Pursuant thereto, respondent No.1 issued the impugned show cause notice dated 26.03.2026 under Section 148A(1) of the Act for the assessment year 2024-25, along with an Annexure setting out the information and reasons recorded forming the basis for the proposed reassessment proceedings. In the said Annexure, respondent No.1 alleged that information had been received through the Insight Portal under the Risk Management Strategy (for short ‘RMS’) formulated by the CBDT, indicating that the petitioner had allegedly undertaken unexplained and unaccounted transactions aggregating to Rs.3,46,11,545/- during the relevant assessment year 2024-25. The impugned notice further referred to M/s. Polycab India Limited as the source of the alleged information, and called upon the petitioner to explain why proceedings under Section 148 of the Act ought not to be initiated against it. Significantly, apart from the said generalized allegation, neither the notice nor the Annexure disclosed any specific seized material, document, statement, invoice, ledger account, or other incriminating material allegedly pertaining to the petitioner or to establish that any income chargeable to tax had escaped assessment in its hands.

5. In response, the petitioner filed multiple replies dated 03.04.2026, as also detailed objections dated 21.04.2026, specifically denying any transaction whatsoever with M/s. Polycab India Limited and controverting the allegations contained in the notice. The petitioner further pointed out that although the impugned notice purportedly relied upon information received through the RMS, the notice issued under Section 148A(1) itself stated that the information emanated from a search action conducted in the case of the Polycab

Group on 22.12.2023, and that the proceedings were consequently governed by Section 152(3) of the Act. On this basis, the petitioner submitted that the jurisdictional conditions prescribed under the Act for initiation of reassessment proceedings stood unfulfilled, and that the proceedings were liable to be dropped.

6. Thereafter, respondent No.1 passed the impugned order dated 24.06.2026 under Section 148A(3) of the Act rejecting the objections and submissions filed by the petitioner. In the said order, respondent No.1 apart from reiterating the allegations contained in the show cause notice, placed reliance on the additional material and allegations pertaining to the search conducted in the case of M/s. Polycab India Limited, including references to the alleged activities of the Sunrise Group, a parallel set of accounts described as “Ka”, and statements of third parties recorded during the course of the search proceedings to conclude that the petitioner had allegedly undertaken unexplained transactions. Respondent No.1, however, remained silent on the jurisdictional objections specifically raised by the petitioner with respect to the applicability of Section 152(3) of the Act and the validity of the sanction accorded under Section 151 of the Act, insofar as the same governing the present reassessment proceedings. Respondent No.1 thereafter issued the consequential notice dated 24.06.2026 under Section 148 of the Act for the assessment year 2024-25, alleging that income chargeable to tax had escaped assessment.

7. Aggrieved by the impugned show cause notice dated 26.03.2026 issued under Section 148A(1) of the Act, the impugned order dated 24.06.2026 passed under Section 148A(3) of the Act, and the consequential notice dated 24.06.2026 issued under Section 148 of the Act, for the assessment year 2024-25, the same being, according to the petitioner, *ex facie* without jurisdiction, illegal, arbitrary, and contrary to the provisions of Sections 147, 148, 148A, 149, 151 and 152(3) of the Act, the petitioner was constrained to invoke the extraordinary jurisdiction of this Hon’ble Court under Article 226 of the Constitution of India on the grounds urged in the Writ Petition.

8. Learned counsel for the petitioner submitted that because the entire basis of the impugned proceedings admittedly emanates from the search action conducted in the case of M/s. Polycab Group on

22.12.2023, and the said search having been conducted between the period commencing from 01.04.2021 and ending on 01.09.2024, the provisions of Section 152(3) of the Act become directly applicable to the re-opening proceedings initiated under Section 148A of the Act, because as per clause (3) of Section 152 of the Act, inserted from Finance Act, 2024 w.e.f. 01.09.2024 states that the authority concerned was required to examine and initiate the reassessment proceedings in accordance with Section 152(3) of the Act. The Respondent No.1 in the instant case has, however, failed to consider the applicability and effect of Section 152(3) while issuing the impugned notice and passed the impugned order, thereby vitiating the assumption of jurisdiction.

9. Learned counsel for petitioner also relied on a very recent judgment passed by the Gujarat High Court in the case of **Bipinkumar Girdharlal Parekh vs. Office of the Assistant Commissioner of Income Tax, Circle 4(1)(1), Ahmedabad**[1] wherein it has been held that the provisions of Section 152(3) are not confined only to searched persons but extend to all the assessees against whom reassessment proceedings are initiated on the basis of

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[1] R/SPECIAL CIVIL APPLICATION NO.15105 of 2025, decided on 15.06.2026

or as a consequence of a search conducted between 01.04.2021 and 01.09.2024 and in whose cases incriminating material is alleged to have been found. The relevant paragraph on which reliance is placed by the learned counsel for the petitioner is reproduced hereunder:

> *"12. The contention raised before us by the Revenue, to the extent that the Finance (No. 2) Act of 2024 will apply in the present case, as there is no search conducted against the petitioner, is misconceived, <u>since the reopening of the assessment against the petitioner is exclusively premised upon the incriminating materials found during the search under Section 132 of the Act. The provisions of Section 152(3) of the Act are not limited for undertaking the reassessment against searched person only</u>, as projected before us by the Revenue, and not against other person, who is not subjected to search. provision of Section 152(3) of the Act is applicable to all the assessee, where the reassessment proceedings are initiated, 'on the basis' or 'as a consequence of a search conducted between 01.04.2021 and 01.09.2025, and against whom incriminating material is found.* ***However, the re-opening of the assessment is subject to limitations as provided under Section 149 of the Act.*** *As mentioned herein-above the provision of Section 132 of the Act finds place in the provision of Section 149 of the Act and hence, the reassessment, since it emanates on the incriminating material found during the search at M/s. DCW Ltd. group, connecting the present petitioner with such material, the provision of Section 149 of the Finance (No.1) Act prescribing limitation gets attracted. Thus, on this sole ground, the writ-petition succeeds, and the impugned reopening of the assessment order dated 19.05.2025 and the impugned*

notice dated 23.05.2025 are hereby quashed and set aside. The writ-petition stands allowed."

10. Learned counsel for the petitioner further placed reliance upon the judgment passed by the Bombay High Court in the case of **Hindustan Lever Ltd. vs. R.B. Wadkar**[2] wherein it has been held that the reasons recorded must disclose the mind of the Assessing Officer and cannot suffer from vagueness.

> ***"10.*** *The petitioner submits that the disclosure of reasons would make it clear that no failure on the part of the petitioner to disclose fully and truly all material facts necessary for its assessment for that assessment year has been alleged as such the notice is hit by the proviso to section 147 and the same being beyond the period of four years from the end of the assessment year is unsustainable in law much less the same is without jurisdiction. We find that the submission made is well sustainable. It is not in dispute that the proviso to section 147 of the Act is applicable to the facts of this case and the notice is without jurisdiction. The same view is taken by us while deciding connected Writ Petition No. 1505 of 2003 ([2004] 268 ITR 332 (Bom)). Thus, for the reasons stated in our judgment dated February 25, 2004, delivered in Writ Petition No. 1505 of 2003 ([2004] 268 ITR 332 (Bom)), we quash and set aside the notice dated September 23, 2002, issued undersection 148 of the Act holding it to be without jurisdiction. Even otherwise, having examined the facts and the proceedings it is clear that the Revenue could not establish any lapse or failure on the part of the assessee-petitioner to disclose fully and truly all material*

[2] (2004) 268 ITR 339

necessary for the assessment of the petitioner for the assessment year in question."

Learned counsel for the petitioner supported her argument by submitting that it is a settled principle of law that the reasons recorded for reopening must disclose independent application of mind by the Assessing Officer, must be clear, unambiguous and self-explanatory and must establish a live nexus between the material relied upon and the formation of belief that income chargeable to tax has escaped assessment.

11. Reliance is also placed upon the judgment of the Bombay High Court the case of **in Ananta Landmark (P) Ltd. vs. CIT**[3] wherein it has been held that the validity of reassessment proceedings must be tested only on the basis of the reasons recorded and the same cannot subsequently be supplemented or improved upon. The relevant paragraphs on which reliance is placed by the learned counsel for the petitioner is reproduced hereunder:

*"**17.** We are satisfied that the petitioner had truly and fully disclosed all material facts necessary for the purpose of assessment. Not only material facts were disclosed by the petitioner truly and fully but they were carefully scrutinized and figures of income as well as deduction were reworked carefully by the Assessing Officer. In*

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[3](2021) 439 ITR 168

the reasons for reopening, the Assessing Officer has in fact relied upon the audited accounts to say that the claim of deduction under section 57 of the Act was not correct, the figures mentioned in the reasons for reopening of assessment are also found in the audited accounts of the petitioner. In the reasons for reopening, there is not even a whisper as to what was not disclosed. In the order rejecting the objections, the Assessing Officer admits that all details were fully disclosed. In our view, this is not a case where the assessment is sought to be reopened on the reasonable belief that income had escaped assessment on account of failure of the assessee to disclose truly and fully all material facts that were necessary for computation of income but this is a case wherein the assessment is sought to be reopened on account of change of opinion of the Assessing Officer about the manner of computation of the deduction under section 57 of the Act. In a similar case where the notice to reopen the assessment was founded entirely on the assessment records and the entire basis for reopening the assessment was the disclosure which has been made by the assessee in the course of the assessment proceedings and where no material to which a reference was to be found, a Division Bench of this court in ***3i Infotech Limited v. Asst. CIT*** *[2010] 329 ITR 257 (Bom) ; [2010] 192 Taxman 137 (Bom) relied upon by Mr. Pardiwalla, in paragraph 12 held (pages 265 and 266 of 329 ITR) :*

> *"12. The record before the court, to which a reference has been made earlier, is clearly reflective of the position that during the course of the assessment proceedings the assessee had made a full and true disclosure of all material facts in relation to the assessment. As a matter of fact, it would be necessary to note that the notice to reopen the assessment on the first issue is founded entirely*

> *on the assessment records. There is no new material to which a reference is to be found and the entire basis for reopening the assessment is the disclosure which has been made by the assessee in the course of the assessment proceedings. In Cartini India Ltd. v. Addl. CIT [2009] 314 ITR 275 (Bom), a Division Bench of this court has observed that where on consideration of material on record, one view is conclusively taken by the Assessing Officer, it would not be open to the Assessing Officer to reopen the assessment based on the very same material with a view to take another view. The principle which has been enunciated in Cartini must apply to the facts of a case such as the present. The assessee had during the course of the assessment proceedings made a complete disclosure of material facts. The Assessing Officer had called for a disclosure on which a specific disclosure on the issue in question was made. In such a case, it cannot be postulated that the condition precedent to the reopening of an assessment beyond a period of four years has been fulfilled."*

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19. *As already mentioned, it cannot be said in the present case that there was an omission or failure on the part of the assessee to disclose fully and truly all material facts necessary for the assessment. It cannot be stated that the condition precedent to the reopening of an assessment beyond a period of four years has been fulfilled. The statement in the reasons for reopening "I have reasons to believe that income of Rs. 7,66,66,663 which was chargeable to tax has escaped assessment by reason of failure on the part of the assessee to disclose fully and truly all facts necessary. . ." is clearly made only as an attempt to take the case*

> *out of the restrictions imposed by the proviso to section 147 of the Act. As observed in Parashuram Pottery Works Co. Ltd. (supra), it would be in the interest of citizens of India or we should say, civilization that those who are entrusted with the task of calculating and realising the price that we pay for the civilization should familiarise themselves with the relevant provisions and become well versed with the law on the subject. Any remissness on their part can only be at the cost of the national exchequer and must necessarily result in loss of revenue.*

12. On the other hand, the learned Senior Standing Counsel for Income Tax Department contended that the impugned show cause notice dated 26.03.2026 issued under Section 148A(1) of the Act, the impugned order dated 24.06.2026 under Section 148A(3) of the Act, and the consequential notice dated 24.06.2026 under Section 148 of the Act, were all issued strictly in exercise of the statutory power vested in respondent No.1 to reopen an assessment where information suggesting escapement of income has come to the notice of the Assessing Officer, and that the same could not be equated with a final or concluded determination of tax liability. It was submitted that the material referred to in the Annexure of the show cause notice, including the information received through the Insight Portal under the RMS and the material gathered pursuant to the search conducted in the case of M/s. Polycab India Limited, disclosed sufficient reason for the Assessing Officer to form a *prima facie* belief warranting further enquiry and that the sufficiency or adequacy of such material could not be tested by this Court in exercise of its writ jurisdiction and the matter should be appropriately left for consideration in the reassessment proceedings itself.

13. It was further contended by the learned Senior Standing Counsel for Income Tax Department that the proceedings under Section 148A of the Act are, by their very nature and design, in the nature of a preliminary or investigative exercise intended to afford the assessee an opportunity to explain the information available with the Department before a formal notice under Section 148 is issued, and the petitioner having already been afforded such an opportunity and having filed replies and objections dated 03.04.2026 and 21.04.2026, the petitioner was obligated to appear before the Assessing Officer in the reassessment proceedings now set in motion, place its explanation, evidence and objections including those relating to Section 152(3) and the validity of the sanction under Section 151 on record, and permit the assessment to be completed on merits, rather than short-circuiting the statutory process by invoking the extraordinary jurisdiction of this Court at a stage when no final or prejudicial order determining tax liability had yet come to be passed.

14. Having heard the contentions put forth on either side and on perusal of records, the question that falls for our consideration is whether a show cause notice issued under Section 148A(1) of the Act, and the consequential order issued under Section 148A(3) and notice under Section 148 of the Act, initiating reassessment proceedings, can be assailed in a petition under Article 226 of the Constitution of India, at the very threshold of the reassessment stage without the assessee first availing the statutory remedies and procedure provided under the Act?"

15. It is by now well settled proposition of law that the jurisdiction of this Court under Article 226 of the Constitution, though wide, is not intended to be exercised as a matter of course at every stage of a statutory proceeding. Moreover where the proceeding in question is yet to reach finality and where the statute itself provides a complete and efficacious mechanism for the assessee to raise all the objections, including objections going to jurisdiction, before the very authority conducting the proceedings and thereafter if aggrieved, before the appellate forum constituted under the Act. A show cause notice under Section 148A(1) of the Act, and the order that follows under Section 148A(3) are in their essential character preliminary and investigative to the formation of a final opinion as to whether income chargeable to tax has escaped assessment; they do not by themselves conclude any liability upon the assessee, nor do they foreclose the assessee's right to place its entire case, on facts and in law, before the Assessing Officer in the course of the reassessment that follows.

16. In the present case, we find that the petitioner has at the stage of the show cause notice itself filed detailed replies and objections specifically denying any transaction with M/s. Polycab India Limited and raising *inter alia* the objection that the proceedings being founded on information emanating from a search action were required to be tested against the specific requirements of Section 152(3) of the Act and further questioning the validity of the sanction accorded under Section 151. These are all substantial contentions going to the very root of the jurisdiction to reassess, but for that very reason they are contentions that must in the first instance be examined and answered by the Assessing Officer in the course of completing the reassessment. Further, should the outcome be adverse to the petitioner, the appellate authorities constituted under the scheme of the Act namely the Commissioner of Income Tax (Appeals) and thereafter, the Income Tax Appellate Tribunal who are equally placed to examine such mixed questions of fact and law arising from the seized material, the statements recorded, and the applicability of Section 152(3) to the facts of the case.

17. We are conscious that respondent No.1 while passing the order dated 24.06.2026 under Section 148A(3) of the Act, has not, in terms dealt with the petitioner’s specific objections regarding the applicability of Section 152(3) and the validity of the sanction under Section 151. This omission however does not in our considered view convert what is otherwise a preliminary step in a reassessment proceeding into a final and concluded order amenable to challenge under Article 226 at this stage. If anything adverse is decided, it is a matter that can and ought to be appealed before the Assessing Officer in the course of the reassessment itself and, in the event if the reassessment culminates into an order adverse to the petitioner, it can be challenged before the appellate authorities under the Act who possess the fullest power to test the very same jurisdictional objections on their merits, including the question of validity of the sanction and the applicability of Section 152(3).

18. This Court is not oblivious to the fact that in a given case where there is a total absence of jurisdiction or a patent violation of a mandatory statutory pre-condition going to the very root of the power to reassess, may justify interference at the threshold without relegating the assessee to the alternative remedy. However, we are not persuaded that the present is such a case. What has been urged before us are contentions requiring an appreciation of the material referred to in the impugned order namely, the information gathered from the Insight Portal, the material relating to the Sunrise Group and the statements of third parties recorded in the course of the search, none of which this Court can, or ought to, undertake in writ jurisdiction at the threshold, more so when the reassessment proceedings themselves have not yet culminated into a final order of assessment.

19. It requires to be reiterated that this Court's extraordinary jurisdiction under Article 226 cannot be converted into a forum of first resort for testing the sufficiency of every show cause notice or the correctness of every order passed at the preliminary stage of a reassessment. The statutory scheme of the Act provides a complete and self-contained mechanism commencing with the reassessment itself, and proceeding through the hierarchy of appellate remedies provided thereunder for ventilation of precisely such grievances, including jurisdictional objections of the kind raised by the petitioner herein. Assessees would do well to allow the assessment or reassessment, as the case may be, to reach to its logical culmination, and thereafter avail the remedies provided under the Act in the sequence in which the Legislature has provided them, rather than approaching this Court at the very inception of the proceedings on objections that are, in substance, matters to be urged before and answered by the authorities under the Act itself.

20. Therefore, for the aforesaid reasons we do not find any merit in the arguments raised by the learned counsel for the petitioner in the instant case. The question of law framed is accordingly answered against the petitioner, and it is held that the impugned show cause notice dated 26.03.2026 issued under Section 148A(1) of the Act, the impugned order dated 24.06.2026 under Section 148A(3) of the Act, and the consequential notice dated 24.06.2026 under Section 148 of the Act being steps preliminary to and forming part of an ongoing reassessment proceeding, cannot be assailed at this stage in exercise of the writ jurisdiction of this Court.

21. The Writ Petition thus fails and is accordingly dismissed.

22. As a sequel, miscellaneous petitions pending if any, shall stand closed. However, there shall be no order as to costs.

P. SAM KOSHY, J

NARSING RAO NANDIKONDA, J

Date: 11.08.2026
GSD