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.20450 of 2024

(CNR No. HBHC010388962024)

DATE: 07.09.2026

Between:
M/s. Cyberabad Citizens Health Services Private Limited.

…Petitioner

AND

Deputy Commissioner of Income Tax, Circle 1(1),
IT Tower, AC Guards, Masab Tank,
Hyderabad – 500004 and Another.

…Respondents

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

Heard Mr. T. Suryanarayana, learned Senior Counsel representing Ms. K. Srilatha, learned counsel for the petitioner; and Ms. Bokaro Sapna Reddy, learned Senior Standing Counsel for Income Tax Department representing the respondents.

2. The instant Writ Petition under Article 226 of the Constitution of India has been filed by the petitioner challenging the order dated 16.04.2024, passed by respondent No.1, under Section 148A(d) of the Income Tax Act, 1961 (for short, the 'Act') and also the notice dated 16.04.2024, issued by respondent No.1, under Section 148 of the Act.

3. *Vide* the impugned order; respondent No.1 initiated assessment proceedings under Section 147 of the Act for the assessment year 2019-20.

4. The facts of the case are that the petitioner, a private limited company incorporated in the year 2008, was engaged in the business of providing healthcare services by operating a multi-speciality hospital. With a view to restructuring its business, the management of the petitioner decided to demerge the entire operating business of the said hospital ('healthcare service business') into another company, namely Artmed Healthcare Private Limited (for short 'Artmed Healthcare') incorporated in the year 2016.

5. A scheme of demerger came to be filed by the petitioner and Artmed Healthcare before the National Company Law Tribunal, Hyderabad Bench, Hyderabad (for short 'NCLT'). The said scheme was approved by the NCLT *vide* order dated 08.03.2019, whereby the healthcare business of the petitioner stood transferred to and vested with Artmed Healthcare with effect from the appointed date of 01.04.2017. Consequent upon the demerger, the healthcare business stood transferred to Artmed Healthcare, while the petitioner retained the healthcare infrastructure property. In terms of the demerger order, the petitioner and Artmed Healthcare accordingly revised their financial statements for the year ended 31.03.2018 (the appointed date being 01.04.2017) with the entire income from healthcare services being reflected in the financial statements of Artmed Healthcare.

6. For the year ending 31.03.2019, the petitioner filed its original return of income on 25.10.2019 and a revised return on 14.11.2019 declaring a loss of Rs.1,13,35,168/-. The said return came to be processed under Section 143(1) of the Act accepting the business loss so declared. Pursuant to the demerger, the entire income from the healthcare services / hospital business was accounted for as income of Artmed Healthcare in its return of income and financial statements and the taxable income arising from the healthcare services business after 01.04.2017 was accordingly duly offered to tax by Artmed Healthcare.

7. During the previous year 2018-19, customers making payments had deducted tax at source in the name of the petitioner, since the NCLT order approving the demerger had not yet been passed as on 08.03.2019. The Artmed Healthcare, however, while filing its return of income, took into account all transactions pertaining to the healthcare service business, offered the same to tax, and claimed appropriate credit for the tax so deducted at source.

8. Prior to the demerger, the petitioner had carried on the business of healthcare services on premises owned by it; pursuant to the demerger, the petitioner leased the said premises to Artmed Healthcare and earned rental income therefrom, which was duly disclosed in the petitioner's financial statements and offered to tax accordingly. Respondent No.1 thereafter issued a notice dated 28.03.2024 under Section 148A(b) of the Act calling upon the petitioner to show cause as to why a notice under Section 148 of the Act ought not to be issued for the assessment year 2019-20. In terms of the said notice, respondent No.1 claimed to be in possession of information suggesting that the petitioner had failed to report:

i. Professional receipts of Rs.1,25,85,296/- received from Star Health and Allied Insurance Company Ltd.;

ii. Receipts towards fees for professional and technical services amounting to Rs.43,39,64,639/-;

iii. Interest income of Rs.7,59,595/-; and

iv. Contract receipts of Rs.43,65,774/-.

9. On the basis of which respondent No.1 formed the view that income chargeable to tax had escaped assessment. In response to the said notice, the petitioner filed a letter dated 09.04.2024 objecting to the proposed action on the ground that the entire income from the healthcare services business had been accounted for in the financial statements of Artmed Healthcare and duly offered to tax, and that the receipts towards fees for professional and technical services, interest income, and contract receipts likewise formed part of the total income of Artmed Healthcare and had been duly offered to tax therein furnishing, in support, a detailed explanation as to how and under what heads the entire income had been offered to tax, together with copies of the relevant supporting documents.

10. Without appreciating the contentions so raised by the petitioner, respondent No.1 proceeded to pass an order dated 16.04.2024 under Section 148A(d) of the Act, holding it to be a fit case for issuance of notice under Section 148 of the Act. In the said order, respondent No.1 recorded that pursuant to the demerger, Artmed Healthcare had admitted gross receipts of Rs.109,34,79,773/-, which was however not forthcoming as per the insight information available with the Department. That as per such insight information, the petitioner had entered into transactions amounting to Rs.108,36,46,354/-, which, though stated to have been duly offered to tax in the hands of Artmed Healthcare, could not be verified for want of specified transaction details on record, thereby warranting further verification, and that insofar as the sum of Rs.1,25,85,296/- received from Star Health and Allied Insurance Company Ltd. already offered to tax by the petitioner was concerned, the same likewise required verification. On this basis, respondent No.1 concluded that income chargeable to tax had escaped assessment and consequently issued a notice dated 16.04.2024 under Section 148 of the Act proposing to assess / reassess the petitioner for the assessment year 2019-20.

11. The proceedings so initiated, according to the petitioner, suffered from various infirmities and were without jurisdiction and, therefore, illegal, inasmuch as the material relied upon for initiating the proceedings did not fall within the meaning of 'information' as defined under clause (i) of Explanation 1 to Section 148 of the Act, the transactions referred to in the notice issued under Section 148A(b) having already been recorded in the books of Artmed Healthcare and duly offered to tax therein, leaving no scope for any income to have escaped assessment in the petitioner's hands. It was contended that the proceedings, having been initiated in the absence of any 'information' as defined under Explanation 1 to Section 148 of the Act and without any material suggesting that income chargeable to tax had escaped assessment, were bad in law. Further, the impugned notice having been issued after a period of four years from the end of the relevant assessment year, was barred by limitation in terms of the first proviso to Section 149(1) of the Act and that, in any event, the notice having been issued beyond a period of three years from the end of the relevant assessment year, no case had been made out for invocation of the extended period of limitation under Section 149(1)(b) of the Act.

12. It was accordingly the petitioner's case that the impugned order dated 16.04.2024 passed under Section 148A(d) of the Act and the impugned notice dated 16.04.2024 issued under Section 148 of the Act were bad, illegal, and liable to be set aside, and permitting the Department to proceed with the action so initiated would amount to an abuse of the process of law, causing irreparable loss and hardship to the petitioner.

13. The petitioner accordingly being aggrieved by the proceedings initiated under Section 147 of the Act and thereby constrained to institute the present writ petition, having no other efficacious alternative remedy available to secure relief, and it being affirmed that no other writ petition or proceeding on the same cause of action had been filed or initiated by the petitioner before this Hon'ble Court or any other Court or forum.

14. Learned Senior Counsel for the petitioner submitted that pursuant to the demerger, the entire healthcare business was demerged to Artmed Healthcare and therefore, any proceedings to assess the petitioner for the income belonging to Artmed Healthcare is without jurisdiction and that respondent No.1 having acknowledged the fact that the petitioner had demerged its healthcare services business with Artmed Healthcare and that both the companies had filed their return of income, the Department erred in proceeding with the impugned reassessment for the sole reason that the insight portal reflected transactions in the hands of the petitioner is absurd and an abuse of process of law.

15. Learned Senior Counsel for the petitioner further submitted that despite the petitioner giving all necessary details and explanations in the response dated 10.04.2024 to demonstrate that the income with respect to the flagged transactions are already offered to tax in the hands of Artmed Healthcare, the action of respondent No.1 in continuing the reassessment proceedings only to further verify is without an objective assessment and application of mind, which cannot be countenanced.

16. Learned Senior Counsel for the petitioner contended that the prerequisite for initiation of proceedings under Section 147 of the Act is the existence of "information" with the Assessing Officer which suggests that income has escaped assessment and that the proceedings are initiated without existence of any "information" as defined under clause (i) of the explanation 1 to Section 148 of the Act, and therefore the proceedings initiated are without jurisdiction. That if the term "information" referred to in Section 148 of the Act is interpreted to mean information which is already on record, it would vest the Assessing Officer with unbridled power and against the accepted principle of law that there must be finality in all legal proceedings and the intention behind the amendment brought *vide* Finance Act, 2021, which is unsustainable.

17. Learned Senior Counsel for the petitioner further contended that the requirement under Section 149(1)(b) of the Act requiring books of account, other documents or evidence 'reveal' income chargeable to tax escaping assessment would imply that what is not disclosed earlier and consequently, where there is disclosure, there can be no question of revelation of any income escaping assessment and thus, section 149(1)(b) would have no application.

18. On the other hand, the learned Senior Standing Counsel for Income Tax Department submitted that the “information” based on which respondent No. 1 initiated proceedings under Section 148 of the Act is within the meaning of explanation (1) to Section 148 of the Act. Further, as information in possession of respondent No.1 suggested that the income chargeable to taxation has escaped assessment and is more than Rs.50,00,000/-, notice has been issued within the time limit of six years as prescribed in Section 149(1)(b) of the Act.

19. Learned Senior Standing Counsel for Income Tax Department further submitted that the information in respect of said transactions aggregating to Rs.108,36,46,354/- and the sum of Rs.1,25,85,296/- received from Star Health and Allied Insurance Company Ltd was triggered in insight portal only against the petitioner and not against M/s. Artmed Healthcare Pvt. Ltd. Moreover, the fact that the said transactions belong to the demerged health services business of petitioner came to the cognisance of respondent No.1 only when the petitioner filed its response dated 10.10.2024.

20. Learned Senior Standing Counsel for Income Tax Department contended on the footing that the mere claim of the petitioner that the said income with respect flagged transactions in the insight portal was offered in the hands of M/s. Artmed Healthcare Pvt Ltd. does not authenticate the genuineness of the disclosure made by M/s. Artmed Healthcare Pvt. Ltd., as no such information was available in insight portal against M/s. Artmed Healthcare Pvt Ltd.

21. Learned Senior Standing Counsel for the Income Tax Department lastly contended that the time limit for issuance of notice under Section 148 are prescribed in the Section 149 of the Act and that the petitioner's case clearly falls under Section 149(1)(b) of the Act and the income escaped the assessment is represented in the form of an entry or entries in the books of account which is exceeding Rs.50,00,000/- as defined under Section 149(1)(b) of the Act.

22. Having heard both the contentions put forth on either side and on perusal of records, the question which falls for our consideration is whether the material relied upon by respondent No.1 constituted 'information' within the meaning of Explanation 1 to Section 148 of the Act, so as to justify initiation of reassessment proceedings against the petitioner for the assessment year 2019-20, and whether in any event the impugned notice issued beyond the ordinary period of limitation prescribed under Section 149(1)(a) of the Act could be sustained under the extended period available under Section 149(1)(b) of the Act in the absence of any 'revelation' of undisclosed income of Rs.50,00,000/- or more?

23. It would be trite at this juncture to refer to Section 148 and 149 of the Act, which for ready reference is reproduced hereunder:

> *"**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 **[**a period of three months from the end of the month in which such notice is issued, or such further period as may be allowed by the Assessing Officer on the basis of an application made in this regard by the assessee**]**, 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 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; or

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

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

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

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

*"**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 —*

(i) an asset;

> *(ii) expenditure in respect of a transaction or in relation to an event or occasion; or*
> *(iii) an entry or entries in the books of account, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more:]"*

24. Section 148 of the Act, as amended, permits initiation of reassessment proceedings only where there exists "information" with the Assessing Officer within the meaning of Explanation 1 thereto, which suggests that income chargeable to tax has escaped assessment. The very premise of this statutory scheme is that the "information" in question must point towards escapement i.e. towards the income that has not been brought to tax at all and not towards income that stands duly disclosed, accounted for, and offered to tax, merely because it happens to be reflected under a different assessee's PAN on account of a corporate restructuring exercise such as a demerger.

25. On the facts before us, it is not in dispute that the healthcare services business of the petitioner stood demerged into Artmed Healthcare pursuant to the scheme sanctioned by the NCLT *vide* order dated 08.03.2019, with effect from the appointed date of 01.04.2017, and that the entire income relatable to that business for the period in question was disclosed and offered to tax in the hands of Artmed

Healthcare in its own return of income and financial statements. That the insight portal happened to flag certain of these transactions against the petitioner's PAN for the entirely explicable reason that tax was deducted at source in the petitioner's name by counterparties who transacted with it before the NCLT's sanction order came to be passed on 08.03.2019 does not convert genuinely disclosed and taxed income into income that has "escaped assessment". The distinction between income that is undisclosed and income that is merely attributed for technical or transitional reasons to the wrong PAN number in a departmental database is fundamental and respondent No.1, in our view, has failed to appreciate this distinction.

26. This becomes further apparent from a plain reading of the impugned order dated 16.04.2024 itself. Respondent No.1, while dealing with the sum of Rs.108,36,46,354/-, has recorded in terms that the said amount though corresponding to the insight information flagged against the petitioner, was "duly offered in the hands of Artmed Healthcare" and proceeded to hold that the matter nonetheless required "further verification" on account of "specified transaction details" not being forthcoming from the record. Similarly, in respect of the sum of Rs.1,25,85,296/- received from Star Health and Allied Insurance Company Ltd., an amount the petitioner had admittedly already offered to tax, respondent No.1 once again fell back on the same formula, namely that the matter “needed verification”.

27. We are constrained to observe that an order under Section 148A(d) recording, in the same breath, that an amount has already been offered to tax by the entity legally entitled to be assessed on it and yet proceeding to treat the matter as one of escaped income “requiring verification” discloses an absence of the very application of mind that Section 148A is designed to ensure. Furthermore, the scheme of Section 148A was introduced precisely to interpose a filtering mechanism before an assessee is subjected to the rigours of reassessment so that reassessment proceedings are not set into motion on a mere hunch or for the purpose of a roving or fishing inquiry. Where the material already before the Assessing Officer, including the petitioner's detailed response dated 09.04.2024 with supporting documents demonstrated that the income in question stood duly disclosed and taxed in the hands of Artmed Healthcare, it was incumbent upon respondent No.1 to have engaged with that material and recorded reasons as to why it was found unsatisfactory or insufficient not to invoke the talismanic formula of "further verification" as a substitute for the objective satisfaction that the statute requires before a notice under Section 148 can be issued.

28. We are equally persuaded by the petitioner's alternative contention on limitation. Section 149(1)(a) of the Act prescribes an ordinary period of three years from the end of the relevant assessment year within which a notice under Section 148 may be issued. The extended period of up to ten years under Section 149(1)(b) is available only where the Assessing Officer is in possession of books of account, other documents, or evidence which "reveal" that income chargeable to tax represented in the form of an asset, expenditure, or an entry in the books of account, has escaped assessment to the extent of Rs.50,00,000/- or more. <u>The operative word in clause (b) "reveal" is a word that necessarily connotes the surfacing of something that was not already known or disclosed.</u> Whereas here, the very transactions said to give rise to escapement stand recorded in the books of Artmed Healthcare and disclosed in its return of income. The material that was placed before respondent No.1 by the petitioner itself in response to the show-cause notice cannot be said that any books of account, document, or evidence has “revealed” undisclosed income of the requisite threshold. What respondent No.1 possessed, at best, was information that required correlation and verification against material that was already disclosed and not a revelation of concealment. The extended period of limitation under Section 149(1)(b) was therefore, not available to respondent No.1 on the facts of this case and the notice dated 16.04.2024 having admittedly been issued beyond three years from the end of the assessment year 2019-20, the ordinary period prescribed under Section 149(1)(a) is barred by limitation.

29. The submission of the learned Senior Standing Counsel for Income Tax Department that the insight portal reflected the impugned transactions only against the petitioner and not against Artmed Healthcare and the fact of the transactions belonging to the demerged healthcare business came to the Department’s knowledge only upon the petitioner’s response does not in our view, improve the Revenue’s case. If anything, it confirms that respondent No.1, upon being furnished this explanation together with supporting material ought to have verified the same against the return and financial statements of

Artmed Healthcare, an exercise well within the Department's own means. Artmed Healthcare being an assessee on its own rolls, rather than mechanically proceeding to issue notice under Section 148A(d) on the basis that the petitioner's claim was unauthenticated. Tax administration cannot proceed on the footing that an assessee's documented and verifiable explanation furnished with full particulars, is to be disbelieved merely because the Department finds it inconvenient to cross-verify against its own records relating to a connected assessee, particularly given that the demerger itself was a matter of public record sanctioned by the NCLT and readily verifiable.

30. Therefore, we are of the considered opinion that the impugned proceedings, both on the ground of absence of valid "information" within the meaning of Explanation 1 to Section 148 of the Act, and on the independent ground of limitation under Section 149 of the Act, are unsustainable. The impugned order dated 16.04.2024 passed under Section 148A(d) of the Act and the consequential notice dated 16.04.2024 issued under Section 148 of the Act, for the assessment year 2019-20, are therefore set aside. The question of law is accordingly answered in favour of the petitioner and against the respondents.

31. The instant Writ Petition accordingly stands allowed.

32. 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: 07.09.2026
GSD