

HC-KAR



CNR: KAHC010624172026

NC: 2026:KHC:49555
WP No. 28272 of 2026

IN THE HIGH COURT OF KARNATAKAAT BENGALURU

DATED THIS THE 9TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE B M SHYAM PRASAD

WRIT PETITION NO. 28272 OF 2026 (T-IT)

BETWEEN:

M/S KODACHADRI ASSOCIATES

A PARTNERSHIP FIRM REGISTERED UNDER THE
PROVISIONS OF THE INDIAN
PARTNERSHIP ACT, 1932
HAVING ITS REGISTERED OFFICE AT SHREE
KAMAKSHI, BANKESHWAR ROAD,
BYNDOOR, KARNATAKA-576214
REPRESENTED BY ITS PARTNER,
SRI. K VENKATESH KINI

...PETITIONER

(BY SRI. S. S. NAGANAND, SENIOR ADVOCATE FOR

SRI. NAGESH MORO.,ADVOCATE)

AND:

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

Digitally
signed by
VANAMALA
N
Location:
HIGH
COURT OF
KARNATAKA

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2. INCOME TAX OFFICER, WARD 1 AND TPS, UDUPI
AAYAKAR BHAVAN, UDUPI, MALPE ROAD, AADI
UDUPI, AMBALAPADI (PO), UDUPI-576103

...RESPONDENTS

(BY SRI. M. THIRUMALESH, ADVOCATE A/W

SRI. NIRMAL MATHEW, ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 16.06.2026 BEARING NO. ITBA/AST/F/148A/2026-27/1089766067(1) PASSED BY R2 (ANNX-C); QUASH THE PRIOR APPROVAL ORDER DATED 12.06.2026 BEARING NO. ITBA/AST/S/128/2026-27/1089643238(1) PASSED BY THE R1 (ANNX-C1). QUASH THE NOTICE DATED 16.06.2026 BEARING NO. ITBA/AST/S/148-1/2026-27/1089766549(1) PASSED BY R2 (ANNX-D); DECLARE THAT THE ASSESSMENT OF PETITIONER FOR THE AY 2022-23 IS NOT A FIT CASE TO ISSUE NOTICE UNDER SECTION 148. AWARD COSTS OF THE PROCEEDINGS.

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

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



ORAL ORDER

The petitioner has called in question the Order under Section 148A(3) of the Income Tax Act, 1961 [for short, *the IT Act*] and the Notice under Section 148 of the IT Act. The details of these impugned orders and notices are as follows.

<i>Particulars</i>	<i>Section of the Income Tax Act, 1961</i>	<i>Date</i>	<i>Annexure</i>
<i>Order</i>	<i>148A(3)</i>	<i>16.06.2026</i>	<i>C</i>
<i>Order</i>	<i>148A(3)</i>	<i>12.06.2026</i>	<i>C1</i>
<i>Notice</i>	<i>148</i>	<i>16.06.2026</i>	<i>D</i>

2. Mr. S. S. Naganand, the learned Senior counsel for the petitioner, submits that the petitioner is issued with Show Cause Notice under Section 148A(1) of the IT Act on 27.03.2026 for the assessment year 2022-23 informing that a business turnover of Rs.28,40,000/- is not disclosed in the Returns and that the petitioner, in response, has filed a detailed reply stating that the sum of Rs.28,40,000/- is not a *business turnover* but a loan

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availed by certain Firms producing not only the petitioner's ledger but also the lender's ledger along with the bank statements, but the second respondent, without considering the same, has passed an Order under Section 148A of the IT Act and has caused the impugned notice opining that the petitioner has not provided the Creditor's Bank statement and that the matter *requires a thorough investigation*.

3. Mr. S. S. Naganand also canvasses that the second respondent, as required under Section 148A(3) of the IT Act, is obliged to take into account the petitioner's response and pass an order about the case *being fit for reassessment and for notice* under Section 148 of the IT Act and unless the second respondent considers the response and opines that it *is a fit case*, the notice under Section 148 of the IT Act and further proceedings would be a rowing or a fishing expedition which cannot be in law.

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4. Mr. M. Thirumalesh, a learned Senior Standing Counsel who accepts notice for the respondents and who is assisted by Mr. Nirmal Mathew, a learned Standing counsel, are heard for the disposal of the petition in the light of these circumstances. The proceedings are begun with notice under Section 148A(1) of the IT Act based on certain information on *business turnover*, and the petitioner has responded specifically stating, and enclosing certain documents [*as could be seen from the reply dated 22.04.2026 Annexure – B*] that the amount is not a *business turnover* but loans availed from known entities in which he is also a partner. The petitioner also has referred to his own bank statements.

5. This Court is of the opinion that if the second respondent could conclude that there must be proceedings with issuance of notice under Section 148 of the IT Act, should have first examined these documents to ascertain whether the amounts declared indeed be classified as *business turnover* as alleged and then record an opinion by



cogent reasons on the circumstances that justify the case being fit for issuance of notice under Section 148 of the IT Act. This failure is a reason for this Court to interfere with the impugned order/approval and notice and restore the proceedings to the second respondent for reconsideration. Further, this Court must also observe that the second respondent, while granting approval under Section 151 of the IT Act, should have looked into all these and then granted approval, and the learned Senior Counsel rightly points out that the prior approval could be dated 27.03.2026 [*much before the petitioner's reply which is dated 12.04.2026*] showing a predisposition. Hence, the following.

ORDER

A. The petition is allowed-in-part.

B. The following are quashed.

<i>Particulars</i>	<i>Section of the Income Tax Act, 1961</i>	<i>Date</i>	<i>Annexure</i>
<i>Order</i>	<i>148A(3)</i>	<i>16.06.2026</i>	<i>C</i>
<i>Order</i>	<i>148A(3)</i>	<i>12.06.2026</i>	<i>C1</i>
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C. The petitioner, without further notice, shall appear before the Income Tax Officer, Ward 1 and TPS, Udupi [*the second respondent*] on **16.10.2026** and the petitioner will be at liberty to file any further clarification that the second respondent may seek but the second respondent must consider the explanation offered in the light of this Court's observation as afore.

Sd/-
(B M SHYAM PRASAD)
JUDGE

RB