JVS.

BASAVRAJ GURAPPA PATIL

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 4001 OF 2025

Reliance Industries Limited	}	Petitioner
Versus		
Deputy Commissioner of Income Tax,	}	
Circle 3(4), Mumbai	}	Respondent

WITH
WRIT PETITION NO. 3359 OF 2025

Reliance Industries Limited	}	Petitioner
Versus		
Deputy Commissioner of Income Tax,	}	
Circle 3(4), Mumbai	}	Respondent

WITH
WRIT PETITION NO. 2980 OF 2025

Reliance Industries Limited	}	Petitioner
Versus		
Additional/Joint/Deputy	}	
Commissioner of Income Tax, Circle	}	
3(4), Mumbai	}	Respondent

Mr. J. D. Mistri, Senior Advocate with Mr. Madhur Agarwal, Mr. Fenil Bhatt, Mr. Amit Mathur, Mr. P. C. Tripathi, Mr.Ketan Dave, Mr. Gaurav Gangal and Mr. Pratik Shah i/b. A. S. Dayal & Associates, Advocates for Petitioners.

Mr. Anil C. Singh, Additional Solicitor General with Mr. Aditya Thakkar, Ms. Savita Ganoo, Ms.Sangeeta Yadav and Mr. Arjun Gupta, Advocates for Respondents.

CORAM: SHREE CHANDRASHEKHAR, CJ. & SUMAN SHYAM, J.

DATE: 22nd APRIL 2026

Per Shree Chandrashekhar, CJ.:

M/s Reliance Industries Ltd.[1] has challenged the notices issued to it under section 143(2) and section 142(1) of the Income Tax Act, 1961 and the proceedings thereto in respect of different assessment years. In Writ Petition No. 4001 of 2025, the petitioner-

1. M/s. *Reliance Industries Ltd.*

company has challenged the notice dated 17th July 2025 under section 143(2) and a notice dated 26th August 2025 under section 142(1) under the Income Tax Act for A.Y. 1995-96. The Revenue issued similar notices under section 143(2) and section 142(1) of the Income Tax Act to the petitioner-company for A.Y. 1993-94 and A.Y. 1994-95 which are under challenge in other two writ petitions viz. Writ Petition No. 2980 of 2025 *qua* A.Y. 1993-94 and Writ Petition No. 3359 of 2025 *qua* A.Y. 1994-95.

2. A common question of law is involved in all these matters; *whether the decision of this Court rendered on 14th February 2025 in a batch of the Income Tax Appeals and a writ petition filed by the RIL contained a "finding" and any "direction" necessary for a decision in those matters on merits?* These writ petitions were heard on different dates and the rival parties advanced similar arguments in all three matters regarding legality or otherwise of the notices issued to the petitioner-company and are disposed of by this common order. As the circumstances in which the impugned notices have been issued in all three matters are similar, the brief facts narrated in Writ Petition No. 4001 of 2025 shall be referred to by the Court for the sake of brevity.

3. Briefly stated, the RPPL[2] filed its return of income on 30th November 1995 for the period between 1st January 1995 to 31st December 1995 for A.Y. 1995-96. The RPEL[3] also filed its return of income for the same period on 30th November 1995. Both the RPPL and RPEL were independent entities at the relevant point of time and have merged with the RIL on 1st January 1995 pursuant to an order dated 11th January 1995 passed by this Court which approved the merger of the RPPL and RPEL with the RIL. The Assessing Officer revised the returns filed by the RPPL and RPEL on

2. Reliance Polypropylene Limited
3. Reliance Polythylene Limited

30th November 1995 and an assessment order was passed on 28th February 1998 under section 143(3) of the Income tax Act against the RPPL assessing its income to the tune of Rs.25,96,62,130/- and ordered initiation of penalty proceedings under section 271(1)(C) of the Income Tax Act for concealment of the income and furnishing incorrect particulars. A similar order of assessment in the case of RPEL was also passed on 28th February 1998 under section 143(3) of the Income Tax Act assessing its income at Rs.24,16,60,300/- and the penalty proceedings under section 271(1)(C) of the Income Tax Act were ordered to be initiated against it. These assessment orders passed in the name of the RPPL and RPEL were challenged by filing the statutory appeals which were decided by the Commissioner of Income Tax (Appeals) being the first appellate Authority by an order dated 13th February 2003. The order passed by the first appellate Authority was challenged before the Tribunal both by the Revenue and the petitioner-company which were disposed of by an order dated 21st December 2006.

4. Aggrieved thereby, the RIL filed Writ Petition No. 772 of 1999 and Income Tax Appeal Nos. 1313 of 2007, 1380 of 2007, 970 of 2007, 971 of 2007, 722 of 2007 and 723 of 2007 and challenged the order passed by the Tribunal on 21st December 2006. The Revenue also preferred Income Tax Appeal Nos. 6033 of 2010 and 6099 of 2007 to challenge the said order passed by the Tribunal. During the pendency of Writ Petition No. 772 of 1999 and the Income Tax Appeals filed by the RIL and the Revenue, a substantial question of law was framed as to; "*whether on the facts and circumstances of the case and in law, the assessment order under section 143(3) of the Act passed on a non-existent entity is bad in law, void ab initio*"?

5. In the judgment delivered on 14th February 2025, the stand

taken on behalf of the Revenue that the RIL took over all the liabilities as per the merger order and cannot shrug off its obligation by raising a belated plea of jurisdiction was not accepted by this Court. This Court held that the Assessing Officer had the knowledge of merger of the RPPL and RPEL with the RIL but he passed the assessment orders against the non-existing entities. This Court held that the apprehension of the Revenue that it may not be able to pass an order in the name of the RIL on account of the limitation under the Income Tax Act was *prima facie* not correct and the Revenue was free to take appropriate action, in accordance with law, against the RIL if the law so permits. It was further held that there are sufficient provisions in the Income Tax Act, such as, sections 153(5), 153(6), 150 etc. to take care of this situation. This Court further observed and clarified that the Revenue was not precluded from initiating fresh proceedings against the RIL in accordance with law for assessing the income in the hands of the successor company. By the judgment dated 14th February 2025, the Income Tax Appeals filed by the RIL were allowed and, consequently, the Income Tax Appeals filed by the Revenue were rendered infructuous. However, on a statement made on behalf of the RIL that the grievance raised in the writ petition would not survive if the appeals filed by the RIL are allowed and the Revenue's appeals are consequently dismissed, Writ Petition No. 772 of 1999 was disposed of as infructuous. In the judgment dated 14th February 2025, this Court held as under: -

> *"25. As stated by us above, the Assessing Officer who has passed the assessment orders for the assessment year 1994-95 on 27 March 1997 had knowledge that RPEL and RPPL have merged with RIL. The dates are not disputed by the respondent-revenue of intimation and notes to accounts and computation of income which are referred to hereinabove. The existence and contents of these documents are also not disputed. The dates of these documents are prior to the assessment orders. Therefore, it can be safely concluded that the assessment orders have been passed in the name of RPEL and RPPL*

(non-existing entities), although the respondent-revenue had full knowledge that such entities did not exist.

26. We are conscious that this plea is taken after almost 3 decades at the stage of third appeal but for the reasons which we have stated in our order dated 20 January 2025, since it being a jurisdictional issue going to the root of the matter, we cannot restrain ourselves from not permitting and not adjudicating upon the same merely on the ground that such a plea is taken after almost 3 decades.

27. The plea of the respondent-revenue is that if the appeals are allowed on this ground, then they may not be able to pass an order in the name of the amalgamated entity-RIL on account of the limitations provided under the Act. Prima facie, we do not agree that the consequences of allowing the jurisdictional plea would result into depriving the revenue of assessing and passing an order in the name of the amalgamated company-RIL on account of limitation. There are sufficient provisions in the Act to take care of this situation based on the order passed by various authorities, for e.g. Sections 153(5), 153(6), 150 etc. Revenue is free to take appropriate action, in accordance with law, to give effect to the submissions of the appellant-assessee if the law so permits. We may also note and accept that the consequence of the appellant-assessee's submission is that the revenue ought to have assessed and passed the order in the name of the amalgamated company-RIL. If that be so, then the revenue is free to take appropriate proceedings under the Act in accordance with law for assessing the amalgamated company-RIL since the appellant-assessee's submission impliedly admits that the assessment ought to have been done in the name of RIL and not in the name of the amalgamating companies RPEL and RPPL.

28. The reliance placed by the respondent-revenue on the decision of the Supreme Court in the case of Mahagun Realtors (P) Ltd. (supra) is distinguishable. This decision was rendered on 5 April 2022 and in which the decision of the Supreme Court in the case of Maruti Suzuki India Ltd. (supra) was also considered. In the case of Mahagun Realtors (P) Ltd. (supra), after the merger order, return of income was filed in the name of the amalgamating company. In the said return of income, PAN of the amalgamating company was mentioned. In the return of income, the date of incorporation of the amalgamating company was mentioned and in the form of return of income to a specific query "Business Reorganization (a)……. (b) In case of amalgamated company, write the name of amalgamating company" the reply mentioned was "NOT APPLICABLE". The appeal before the Tribunal was also filed in the name of amalgamating company. It was on these facts that the Supreme Court observed that since the amalgamating company did not inform the revenue about the amalgamation but held out to the revenue as if the amalgamating company is in existence, the Supreme Court did not accept the submission made by the assessee that the proceedings were taken

> *against the non-existing company. In the present case before us, the respondent-revenue has not pointed out how the facts in the present case are identical to the facts of Mahagun Realtors (P) Ltd. (supra) which was the basis of the decision of the Supreme Court. These facts are absent in the present matter before us, but on the contrary the respondent-revenue had knowledge about the amalgamation/merger as observed by us above and, therefore, the decision of Mahagun Realtors (P) Ltd. (supra) is not applicable to the facts before us."*

6. Purportedly acting pursuant to the aforesaid decision of this Court, the Revenue issued notices to the RIL under section 143(2) and section 142(1) of the Income Tax Act for A.Y. 1993-94, A.Y. 1994-95 and A.Y. 1995-96. The petitioner-company has filed these writ petitions to challenge the said notices issued to it and seeks quashing of the entire proceedings initiated against it for the aforesaid assessment years.

7. Mr. J. D. Mistri, the learned senior counsel for the petitioner-company submits that the notice issued to the RIL under section 143(2) of the Income Tax Act is barred by limitation and, thus, invalid and bad in law. The impugned notices have been issued to the RIL in its standalone capacity and not as a successor to the RPPL and RPEL inasmuch as the notices under section 143(2) and section 142(1) of the Income Tax Act do not specify that such notices have been issued to the petitioner-company in its capacity as the successor company. Furthermore, the notices issued to the petitioner-company shall also not survive if such notices have been issued to it in its capacity as the successor to two different entities because those notices constitute one composite notice with respect to two separate proceedings and two different non-existing entities.

8. The Income Tax Act provides a complete procedure for assessment under Chapter XIV. Section 139 provides that every person (a) being a company or a firm or (b) being a person other than a company or a firm shall on or before the due date furnish a return of his income or the income of such other person during the

previous year in the prescribed form if his total income or the total income of any person in respect of which he is assessable under the Act during the previous year exceeds the maximum amount which is not chargeable to income tax. The third proviso to section 139 mandates that every company or a firm shall furnish on or before the due date the return in respect of its income or loss in every previous year. Section 142 contemplates an inquiry before assessment and provides under sub-section (1) that the Assessing Officer for the purpose of making an assessment under the Act may serve on any person who has made a return or to whom a notice was issued under sub-section (1) of section 139, whether a return was made or not or in whose case the time allowed under sub-section (1) of section 139 for furnishing the return has expired.

9. Section 143 provides the manner in which the return of income filed by an assessee shall be processed whether a return of income was made under section 139 or in response to a notice under sub-section (1) of section 142. Sub-section (2) of section 143 vests power in the Assessing Officer to serve on the assessee a notice requiring him, on a date to be specified therein, either to attend the office of the Assessing Officer or to produce, or cause to be produced before him any evidence on which the assessee may rely in support of the returns to ensure that the assessee has not understated the income or has not computed excessive loss or has not under-paid in any manner any of such cases where the detail has been furnished under Section 139 or in response to a notice under sub-section (1) of Section 142. However, proviso to sub-section (2) puts an embargo on the power of the Assessing Officer to serve a notice on the assessee under sub-section (2). It provides that no notice under this sub-section shall be served on the assessee after the expiry of three months (as substituted by Finance Act, 2021 with effect from 1st April, 2021) from the end of the

Financial Year in which the return is furnished.

10. Section 150 of the Income Tax Act provides that the notice under section 148 may be issued at any time for the purpose of making an assessment or reassessment or re-computation in consequence of or to give effect to any finding or direction contained in an order passed by the Authority in any proceedings under the Income Tax Act by way of appeal, reference or revision or by a Court in any proceeding in any other laws. Section 150 of the Income Tax Act provides as under:

> *"[Provision for cases where assessment is in pursuance of an order on appeal, etc.*
> *150. (1) Notwithstanding anything contained in section 149, the notice under section 148 may be issued at any time for the purpose of making an assessment or reassessment or recomputation, in consequence of, or to give effect to any finding or direction contained in an order passed by –*
>
> *(a) any authority in any proceeding under this Act by way of appeal, reference or revision or*
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> *(b) a Court in any proceeding under this Act or any other law.*
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> *(2) The provisions of sub-section (1) shall not apply in any case where any such assessment or reassessment or recomputation as is referred to in that sub-section relates to an assessment year in respect of which an assessment or reassessment or recomputation could not have been made, by reason of any other provision limiting the time within which an action for assessment or reassessment or recomputation may be taken, at the time when –*
>
> *(a) the order which was the subject-matter of the appeal, reference or revision, as the case may be, was made; or*
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> *(b) the proceedings relating to assessment or reassessment or recomputation under this Act (other than those proceedings which have culminated in an order), which was the subject-matter before the Court was, initiated.*
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> *(3) For the purposes of sub-section (1), notice under section 148 shall be issued within a period of three months from the end of the quarter in which the certified copy of the order of the authority or the Court, as the case may be, is received by the jurisdictional Principal Commissioner or Commissioner.]*

11. Section 153 of the Income Tax Act is also a relevant provision which may be taken note of. It puts a statutory restriction on

passing an order of assessment under section 143 or section 144 after the expiry of 21 months from the end of the assessment order in which the income was first assessable. Section 153 contains eight sub-sections and several provisos which came to be incorporated by the Finance Act of different years. Sub-section (6) carves out an exception as to the provisions under sub-sections (1), (1A) and 2 and enumerates the classes of assessment, reassessment and recomputation which, subject to the provisions of sub-sections (3), (5) and (5A), may be completed. It provides as under:

> *"[Time limit for completion of assessment, reassessment and recomputation.*
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> *153 (6) Nothing contained in sub-sections (1), (1A) and (2) shall apply to the following classes of assessments, reassessments and recomputation which may, subject to the provisions of sub-sections (3), (5) and (5A), be completed—*
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> > *(i) where the assessment, reassessment or recomputation is made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order under section 250, section 254, section 260, section 262, section 263, or section 264 or in an order of any court in a proceeding otherwise than by way of appeal or reference under this Act, on or before the expiry of twelve months from the end of the month in which such order is received or passed by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be; or*
> >
> > *(ii) where, in the case of a firm, an assessment is made on a partner of the firm in consequence of an assessment made on the firm under section 147, on or before the expiry of twelve months from the end of the month in which the assessment order in the case of the firm is passed."*

12. In "*Murlidhar Bhagwandas*"[4], the Hon'ble Supreme Court held that section 153(3)(ii) of the Income Tax Act puts a bar of limitation for making an assessment order under section 143 or section 144 or section 147 and it does not in any manner enlarges the jurisdiction of the authority or Court to make reassessment of the

4. *Income Tax Officer, Award Sitapur v. Murlitdhar Bhagwandas, Lakhimpur Kheri:* (1964) 52 ITR 335 (SC)

income of an assessee. The statutory regime under the Income Tax Act and, more particularly, the provision under sub-section (2) of section 143 do not admit any exceptions except the situations as indicated in the Income Tax Act. No judgment contrary to the legislative intendment under sub-section (2) of section 143 has been produced before the Court on behalf of the Revenue to carve out an exception to the effect that the bar of limitation is not attracted in the second round of litigation.

13. This is not in dispute that the judgment dated 14th February, 2025 passed in the batch of Income Tax Appeals filed by the RIL and Revenue was challenged by filing Special Leave Petitions which have been dismissed by the Hon'ble Supreme Court. In the present proceedings pending before this Court, the question of law which is canvassed before this Court mainly centers around the observations made by this Court in the judgment dated 14th February, 2025. The observation made in this judgment to the effect that the Revenue would not be precluded from initiating fresh proceedings against the RIL do not confer jurisdiction in the Assessing Officer to act arbitrarily or without application of mind and beyond its powers as conferred under the Income Tax Act. The observations made by the co-ordinate Bench in paragraph No.27 clearly puts the Assessing Officer on notice that he has to act 'in accordance with law'. The point of law canvassed on behalf of the Revenue is not a complicated question and the issue is resolved on a plain reading of the judgment dated 14th February, 2025.

14. Mr. Anil C. Singh, the learned Additional Solicitor General appearing for the Revenue, however, contended that the order of this Court that the assessment order ought to have been and should be passed in the name of the RIL is a "finding" based on which the judgment dated 14th February 2025 was rendered by this

Court. In our opinion, the observations made in the judgment dated 14th February, 2025 do not contain any reasoning which may be construed as a 'finding' necessary for disposing off the Income Tax Appeals filed by the RIL and the Revenue, as contemplated under section 150 or section 153(6) of the Income Tax Act. In *"Rajinder Nath Etc."*[5], the scope of the expressions "finding" and "direction" in section 153(3)(ii) of the Income Tax Act, which provides the time limit for completing the reassessment proceeding, was considered by the Hon'ble Supreme Court. It was held that the "finding" recorded by an appellate, revisional or reference Court or authority would mean a finding necessary for the disposal of the case in respect of a particular assessee and in relation to a particular assessment year. By way of an example, it was indicated that if a finding in respect of the liability of an assessee can be directly recorded without relying upon some finding recorded in respect of another individual or entity then any finding recorded in relation to such an individual or entities shall be an incidental finding and not a finding as contemplated under section 153(3)(ii) of the Income Tax Act.

15. The judgment dated 14th February, 2025 has been clearly misinterpreted and misconstrued by the Revenue as to conferring jurisdiction in the Assessing Officer to act in the matter notwithstanding a clear bar to issue a notice under sub-section (2) of section 143. This is also incorrect to say that the rigors of limitation under proviso to sub-section (2) shall not be attracted in this case in the second round of litigation. The impugned notices under section 143(2) have been issued to the petitioner-company beyond the statutory period of three months from the end of the Financial Year in which the returns were furnished by the RPPL and RPEL. Mr. Mistri, the learned senior counsel rightly contended

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5. *Rajinder Nath & Ors. v. Commissioner of Income Tax, Delhi:* (1979) 4 SCC 282

that the notice for reassessment is required to be first issued to the assessee and the further proceedings against the petitioner-company cannot be initiated by merely issuing the impugned notice under section 143(2) of the Income Tax Act. The Assessing Officer has also failed to record his satisfaction and no material thereof has been produced in the present proceedings that the Assessing Officer was satisfied that it is expedient or necessary to scrutinize the returns of the assessee.

16. Mr. J. D. Mistri, the learned senior counsel for the petitioner-company referred to the decision in "*Shell India Markets Private Limited*"[6] to submit that the impugned notices issued to the petitioner-company, even otherwise, warrant interference of this Court in view of the said decision in "*Shell India Markets Pvt. Ltd.*[6]" which was rendered by this Court in similar situation and on identical set of facts.

17. This is a matter of judicial discipline and propriety and necessary to maintain uniformity in the judicial system that the judgment in "*Shell India Markets Pvt. Ltd.*"[6] rendered by a Division Bench of this Court is followed by another Bench of co-equal strength, with an exception of reference to a larger Bench. The judgment rendered even on facts in a particular case cannot be reopened and deviated by any co-ordinate Bench in a subsequent case, which may not be even between the same parties. In "*Chandra Prakash*"[7], the Hon'ble Supreme Court held as under: -

> *"22.. The doctrine of binding precedent is of utmost importance in the administration of our judicial system. It promotes certainty and consistency in judicial decisions. Judicial consistency promotes confidence in the system, therefore, there is this need for consistency in the enunciation of legal principles in the decisions of this Court. It is in the above context, this Court Raghubir Singh held that a pronouncement of law by a Division Bench of this Court is binding on*

6. *Shell India Markets Private Limited v. The Deputy Commissioner of Income Tax, Circle-3(4), Mumbai & Anr.: Writ Petition No. 4017 of 2025*
7. *Chandra Prakash v. State of U. P.: (2002) 4 SCC 234*

a Division Bench of the same or smaller number of Judges. .....”

18. It is pointed out by Mr. J. D. Mistri, the learned senior counsel for the petitioner-company that the judgment dated 14th February 2025 rendered in the first round of litigation took note of the decision in “*Maruti Suzuki India Limited*”[8] to interfere with the order dated 21st December 2006 passed by the Tribunal. In “*Maruti Suzuki India Ltd*”, the Hon’ble Supreme Court held that the former entity ceases to exist upon approval of the scheme of amalgamation and the jurisdictional notice as well as the assessment order passed thereto against the erstwhile company, which on the date of the jurisdictional notice was a non-existing Company, is a substantive illegality. “*Maruti Suzuki India Ltd.*” was rendered in the context of section 292B of the Income Tax Act which provides that any notice, summons, return of income or other proceeding furnished or made or issued or taken or purported to have been furnished or made or issued or taken under the Income Tax Act, 1961 shall not be invalid or shall be deemed to be invalid merely by the reason of any mistake, defect or omission in such return of income, assessment, notice, summons or other proceeding provided such return of income, assessment, notice, summons or other proceeding was in subsistence and effect in conformity with or according to the intent and purpose of the Income Tax Act. The Hon’ble Supreme Court considered the previous decisions of Delhi High Court and the decisions in “*CIT v. M/s Spice Enfotainment Ltd.*”[9] and “*Skylight Hospitality LLP*”[10] and held that the assessee-company on amalgamation with another company loses its existence and the jurisdictional notice issued to the erstwhile assessee-company shall not be merely a procedural violation as contemplated under section

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8 *In Principal Commissioner of Income Tax, New Delhi v. Maruti Suzuki India Ltd.*: (2020) 18 SCC 331.

9. *CIT v. M/s Spice Enfotainment Ltd.:* Civil Appeal No. 285 of 2014 dated 2nd November 2017

10. *Skylight Hospitality LLP” v. Asst. CIT: (2018) 13 SCC 147*

292B of the Income Tax Act.

19. The law is, therefore, well settled that the former Company ceases to exist in the eye of law when it is dissolved under the scheme of amalgamation without winding up. The appeal filed by the Revenue against the "*Shell India Markets Pvt. Ltd.*"[6] came to be disposed of with the following observations: -

> *"5. We agree with the submission made by Mr Bhatt, learned counsel for the Respondent-Assessee that the notice and order should been have issued in the name of the transferee company "Shell India Market Private Limited" and not the transferor company "Shell Technology India Private Limited". The decisions relied upon by the learned counsel for the Respondent-Assessee supports that if the Assessing Officer has been intimated about the fact of merger, then the notice should have been issued in the name of the transferee company and not the transferor company. Since in the instant case the notice and the assessment order is passed in the name of the transferor company "Shell Technology India Private Limited" and not the transferee company "Shell India Market Private Limited", same are bad.*
>
> *6. However, we clarify that the present Appeal is dismissed only on the ground that the notice and assessment order has been passed in the name of the transferor company by accepting the submission of the Respondent-Assessee that the orders could not have been made against the non-existing company. The result and consequence of this submission is that the Assessment order and the notice ought to have been issued in the name of the transferee company and the not the transferor company and contended by the Respondent-Assessee. Accepting the same, we clarify that this order would not preclude the Appellant-Revenue from initiating fresh proceedings against the transferee company, in accordance with law for assessing the income in the hands of the transferee company. We may also observe that the consequence and effect of the submission and the order made herein is that the income should have been assessed in the name of the transferee company and not the transferor company.*
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> *7. The Appeal is disposed of in above terms. No order as to costs."*

20. For a similar reason, an identical order was passed by a co-ordinate Bench of this Court in "*Shell India Markets Pvt. Ltd.*"[11] upholding the decision of the statutory authority that an assessment order could not have been made against a non-existing

11 *Commissioner of Income Tax-LTU v. Shell India Markets Pvt. Ltd.: Income Tax Appeal No.2381 of 2018 order dated 27.03.2025*

entity, namely, Shell Technology India Pvt. Ltd. Just to indicate, that the Income Tax Appeal No. 2381 of 2018[11] was filed by the Revenue to challenge the decision rendered by the Tribunal that no notice could be issued and an assessment order could not have been made pursuant thereto against a non-existing entity, namely, *Shell Technology India Pvt. Ltd.*

21. Furthermore, the decision dated 17th November 2025 passed in the second round of litigation in the "*Shell India Markets Pvt. Ltd.*"[6] reveals that the notices under section 143(2) and section 142(1) of the Income Tax Act issued to the said Company were quashed by a co-ordinate Bench of this Court holding that the order dated 27th March 2025 in Income Tax Appeal No. 2381 of 2018 did not contain any "finding" or "direction" as contemplated under section 153(6) of the Income Tax Act and, consequently, no order of assessment could have been passed against the said Company in view of the bar of limitation under the Income Tax Act. The co-ordinate Bench reflected on the expressions "not precluded from initiating fresh proceedings" and "in accordance with law" in the order dated 27th March 2025 and held that the said order[11] did not contain any finding. Moreover, the decision dated 27th March 2025 even assuming to have recorded a finding then also such finding cannot be held to have been rendered on merits so as to dispose of the appeal before the Court. In "*Shell India Markets Private Limited*"[6] the co-ordinate Bench held as under: -

> *"23. Applying these principles to the facts of the present case, we are of the opinion that the order of this Court dated 27th March 2025 cannot be said to contain any "direction" within the meaning of the word since the Court merely clarified that the revenue authorities were not precluded from initiating fresh proceedings against the transferee company (Petitioner) in accordance with law. The emphasised words clearly rule out any question of a "direction" being issued by the Court. This is also accepted by the Respondents. As to whether the said order contained any "finding" within the meaning of the word, we are of the view that in the first place there is no finding*

> *at all. The Court has merely recorded what it felt was the consequence and effect of the submission made by the Petitioner which had been accepted by the Court. Clearly an effect or consequence can only arise after the submission has been accepted by the Court. Ex facie this can never be a finding necessary to decide the appeal before the Court. To put it differently, in order to decide the appeal before it, the Court merely applied the principle laid down in Maruti Suzuki's case (supra) and held that no assessment could be made on a non-existing company. No consideration of the assessment in the hands of the Petitioner was necessary to decide and finally dispose of the appeal. Therefore, even assuming that a finding exists it is clearly not a "finding" necessary to dispose of the appeal before the Court. Accordingly, there is no question of the provisions of Section 153(6) being attracted in the facts of the present case.*
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> *24. For all the reasons set out above, we are of the view that the order of this Court in Income-tax Appeal No.2381 of 2018 dated 27th March 2025 does not contain any "finding" or "direction" as contemplated by the provisions of Section 153(6) of the Act and consequently no order of assessment could be passed in the case of the Petitioner for the A.Y.2007-08 in view of the bar of limitation in Section 153(1) of the Act."*

22. There is not even a bit of any tangible difference on facts in the present case and "*Shell India Markets Pvt. Ltd.*"[6] There is a need for certainty in the judicial decisions and the element of certainty in the judicial system shall disappear if the Judges of co-ordinate jurisdiction in a High Court start overruling the decisions of another Bench [*vide*, *"Mahadeolal Kanodia"*[12]]. In "*Lala Shri Bhagwan*"[13], the Hon'ble Supreme Court observed that if a learned Judge of the High Court thinks that the earlier decision of the Court requires reconsideration then he should refer the matter to a larger Bench for examining the question involved in the case but the learned judge should not embark upon an inquiry as to the previous decision of the Court. In "*Kalika Kuer*"[14], the Hon'ble Supreme Court observed that the previous decision of the High Court on the similar issue shall be binding on every Bench of co-

12 *Mahadeolal Kanodia v. The Administrator-General of West Bengal: AIR 1960 SC 936*
13. *Lala Shri Bhagwan v. Ram Chand:* AIR 1965 SC 1767
14. *State of Bihar v. Kalika Kuer:* (2003) 5 SCC 448

equal strength and such a decision of the Court cannot be ignored even if the previous decision may seem to be incorrect to another Bench of a co-ordinate jurisdiction.

23. For the foregoing reasons, the impugned notices which are under challenge in Writ Petition Nos. 4001 of 2025, 3359 of 2025 and 2980 of 2025 are quashed and the writ petitions are allowed to that extent.

[SUMAN SHYAM, J.] **[CHIEF JUSTICE]**