IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HON'BLE THE ACTING CHIEF JUSTICE P.SAM KOSHY

AND

THE HON'BLE SRI JUSTICE NARSING RAO NANDIKONDA

WRIT PETITION No.28474 of 2026
(CNR No.HBHC010581442026)

DATE OF ORDER: 30.10.2026

Reserved on : 10.09.2026 **Pronounced on : 30.10.2026**

Uploaded on : 31.10.2026

Between:
Mrs. Prashanthi Gangireddy.

…Petitioner

AND

The Income Tax Officer,
Ward 9(1), Hyderabad, IT Tower, AC Guards, Masab Tank,
Hyderabad, Telangana – 500 004 and 2 Others.

…Respondents

ORDER: *(per Hon'ble the Acting Chief Justice P.Sam Koshy)*

Heard Mr. P. Madhavan, learned counsel representing Mr. Godithi Srihar, learned counsel for the petitioner; and

Mr. Kamasani Sudhakar Reddy, learned Senior Standing Counsel for Income Tax Department representing the respondents.

2. The instant is a Writ Petition under Article 226 of the Constitution of India filed by the petitioner challenging the order passed by respondent No.2, dated 31.10.2025, for the assessment year 2020-21 under Section 147 of the Income Tax Act, 1961 (for short the 'Act').

3. *Vide* the impugned order; the respondent No.2 reopened the assessment of the petitioner for the assessment year 2020-21 alleging that the income of the petitioner has escaped assessment.

4. The facts of the case are that the petitioner derived income from tuition fees and had not filed her income tax return for the assessment year 2020-21. Since her income for the relevant year was only Rs.4,80,000/- and after availing the rebate under Section 87A of the Act, her tax liability worked out to "Nil" no return of income was filed for the said assessment year. That the respondent No.1 without following the mandatory procedure prescribed under the Act, issued an Enquiry Letter under Section 148A(a) of the Act on 03.02.2024,

for the financial year 2019-20 relevant to the assessment year 2020-21, without proper approval of the specified authority as required under Section 151 of the Act. That the approval accorded by respondent No.3 for issuance of the said enquiry letter under Section 148A(a) was not valid, having regard to the requirements of Section 149(1)(b) of the Act.

5. It was submitted that without following the mandatory procedure referred to above, notices were issued by respondent No.1 under Section 148A(b) of the Act on 22.02.2024 in respect of the following:

i. Purchase of immovable property (Form 60/61) amounting to Rs.1,00,00,000/-.

ii. Cash deposits in an account other than a current account maintained with Corporation Bank amounting to Rs.22,29,000/- and the petitioner being called upon to file her response along with documentary evidence on or before 21.03.2024.

6. A detailed reply, together with the supporting documents was filed by the petitioner on 29.03.2024, wherein it was contended that

the purchase value of the immovable property stated at Rs.1,00,00,000/- was incorrect, and the relevant property documents were annexed in support. It was submitted that the amount of Rs.1,00,00,000/- as relied upon by respondent No.1 represented an imaginary transaction that had never taken place, and that a property had, in fact, been purchased for Rs.1,31,55,000/- on 30.12.2020 jointly with three other persons, which a transaction pertaining to the succeeding assessment year, namely the assessment year 2021-22 with the petitioner's share being only 25% of the total consideration, working out to Rs.32,88,750/-. It was further explained that the sum of Rs.22,29,000/- as reflected in the Annexure to the show-cause notice issued under Section 148A(b) of the Act represented an advance payment made towards purchase of property for the succeeding year, gifted to the petitioner by her husband — a fact stated to have been duly and adequately explained in the reply dated 29.03.2024.

7. That respondent No.1, without giving due consideration to the purchase document annexed by the petitioner, evidencing purchase of the property on 30.12.2020 for a total consideration of

Rs.1,31,55,000/-, proceeded on the erroneous premise that the said transaction pertained to the assessment year 2020-21, when, in fact, the transaction fell within the assessment year 2021-22 as has been highlighted by respondent No.2 in the show cause notice issued under Section 148A(b) of the Act.

8. It was submitted that without considering the petitioner's reply, respondent No.1 proceeded to pass an order under Section 148A(d) of the Act on 23.04.2024, with the approval of respondent No.3, thereby holding that income amounting to Rs.47,29,000/- chargeable to tax had escaped assessment in the petitioner's case for the assessment year 2020-21 — a figure which, it was contended, was, in any event, well below the threshold of Rs.50,00,000/- prescribed under Section 149(1)(a) of the Act for reopening of assessment within three years, and was, in addition, factually incorrect, since no such transaction had, in fact, taken place during the relevant assessment year 2020-21. It was contended that the petitioner having placed all the relevant documents on record along with her reply, respondent No.1 ought to have examined the purchase deed dated 30.12.2020, which pertained to the succeeding assessment year, before placing the material before

respondent No.3 for approval; the said placement of material, it was submitted, was itself grossly illegal and invalid, and the consequent grant of approval for issuance of notice under Section 148 of the Act was rendered mechanical and devoid of application of mind.

9. It was further submitted that respondent No.3, before granting such approval was required to independently examine the material available on record including the reply filed by the petitioner, and to determine whether it constituted a fit case for issuance of notice under Section 148 of the Act. It was also submitted that respondent No.3 having failed to examine the documents furnished by the petitioner, had thereby committed an incurable illegality, and had respondent No.3 duly examined the material on record together with the petitioner's reply, the approval for issuance of notice under Section 148 would not have been granted and the proceedings would have been dropped at that very stage.

10. That, a cash deposit of Rs.22,29,000/-, made in the Corporation Bank account on various dates was sourced from a gift received from the petitioner's husband for the purchase of the immovable property

registered on 30.12.2020, and that respondent No.2 had correctly identified and assessed the said cash deposits at Rs.22,29,000/-.

11. It was contended that as per the provisions of Section 149(1) of the Act, reopening of assessment beyond three years from the end of the relevant assessment year is impermissible where the income alleged to have escaped assessment does not exceed Rs.50,00,000/- and that, in the present case, the income alleged to have escaped assessment being only Rs.22,29,000/- reopening of the assessment ought to have been effected, if at all, on or before 31.03.2024.

12. It was further submitted that even assuming, without admitting, the correctness of the averments contained in the order passed by respondent No.1 under Section 148A(d) of the Act, the quantum involved being Rs.47,29,000/- remained well below the threshold limit of Rs.50,00,000/- prescribed under the Act, and that the reopening of assessment beyond three years was, on this ground, illegal, invalid, and void ab initio.

13. That a notice under Section 148 of the Act came to be issued by respondent No.1 on 24.04.2024 and the said notice having been

issued on the basis of an invalid approval accorded by respondent No.3, was likewise invalid, illegal, and void ab initio. It was further contended that the said notice was barred by limitation, having exceeded the maximum period of three years prescribed under Section 149(1) of the Act, since the income assessed at Rs.47,29,000/- fell well within the monetary threshold of Rs.50,00,000/- specified thereunder and in view of the foregoing, and having regard to the facts as ascertained by respondent No.1 himself, notice issued under Section 148 of the Act beyond the statutory period of three years prescribed under Section 149 of the Act, rendered the assessment order passed pursuant thereto null and void.

14. It was accordingly submitted that the impugned assessment order passed by respondent No.2 under Section 147 read with Section 144B of the Act, for the assessment year 2020-21, along with the penalty order passed under Section 271AAC(1) of the Act, were under challenge in the present Writ Petition invoking the jurisdiction of this Court under Article 226 of the Constitution of India, for a Writ of Certiorari calling for the records pertaining to the impugned assessment order dated 31.10.2025 and all consequential action

flowing therefrom, and for quashing the same on, among others, the grounds set out in the writ petition.

15. Learned Senior Counsel for the petitioner argued that the impugned assessment order passed by respondent No.2 under Section 147 read with Section 144B of the Act, on 31.10.2025, is against Law, Cannons of Revenue Jurisprudence, erroneous, illegal and is liable to be quashed on the ground that the respondent No.1 without following the mandatory procedures issued an enquiry letter under Section 148A(a) of the Act, on 03.02.2024 for the financial year 2019-20, i.e. assessment year 2020-21, without proper approval of the specified authority as per the provision of Section 151 of the Act.

16. Learned Senior Counsel for the petitioner further argued that the impugned assessment order passed by the respondent No.2 under Section 147 read with Section 144B of the Act, on 31.10.2025 is liable to be quashed on the ground that it was passed based on the invalid notice under Section 148 which was ought to have been issued with prior approval of the Principal Chief Commissioner of Income Tax, wherein the time limit of 3 years had already expired on 31.03.2024. Since in the instant case, the approval had been accorded

by respondent No.3 who is not the competent specified authority under Section 151 of the Act, all consequential actions emanating from issuance of notice under Section 148 of the Act, are all illegal, invalid and without jurisdiction.

17. Learned Senior Counsel for the petitioner also contended that the impugned assessment order passed by respondent No.2 is liable to be quashed on the ground that granting of approval for issuance of notice under Section 148 in a mechanical fashion without any application of mind by respondent No.3 in view of the fact that before granting approval ought to have decided on the basis of the material available on record including the reply of the assessee whether or not it is a fit case to issue a notice under Section 148 of the Act. Absence of the same on the part of respondent No.3 has resulted in improper and illegal approval and therefore liable to quashed.

18. *Au contraire*, the learned Senior Standing Counsel for Income Tax Department relied upon the judgment of the Hon'ble Supreme Court which upheld the decision of the Delhi High Court in the case of **BKR Capital (P) Ltd. vs. CIT**[1] wherein it was held that the

[1] 2026 SCC OnLine SC 1609

Assessing Officer acted within jurisdiction and that the period consumed in granting opportunity under Section 148A(b) stands excluded as per the fifth proviso to section 149 of the Act.

19. Learned Senior Standing Counsel for Income Tax Department further relied on the judgment of the Delhi High Court in the case of **Sunil Bhalla vs. CIT**[2] wherein it was held against the assessee that the notice issued under Section 148A(d) of the Act stood valid as it was within the four corners of the time limit envisaged under the fifth and sixth proviso of Section 149 of the Act.

20. Having heard the contentions put forth on either side and on perusal of records, the question that falls for our consideration in this case is "whether in a case where the income alleged to have escaped assessment, as quantified by the Assessing Officer himself in the order passed under Section 148A(d) of the Act falls below the threshold of Rs.50,00,000/- prescribed under Section 149(1)(b) of the Act, the notice under Section 148 of the Act, issued beyond the ordinary three year period prescribed under Section 149(1)(a), can be sustained by recourse to the exclusion of time available under the fifth

[2]2026 SCC OnLine Del 4379

and sixth provisos to Section 149(1) of the Act, and where the sanctioning authority neither examined the quantum involved nor recorded any application of mind to the availability of such exclusion?"

21. It would be trite at this juncture to refer to the fifth and sixth proviso of Section 149 of the Act, which for ready reference are reproduced hereunder:

> *"**Time limit for notice.***
> ***149.** (1) No notice under section 148 shall be issued for the relevant assessment year,*
> *……*
> ***Provided also** that for the purposes of computing the period of limitation as per this section, the time or extended time allowed to the assessee, as per show-cause notice issued under clause (b) of section 148A or the period during which the proceeding under section 148A is stayed by an order or injunction of any court, shall be excluded:*
> ***Provided also** that where immediately after the exclusion of the period referred to in the immediately preceding proviso, the period of limitation available to the Assessing Officer for passing an order under clause (d) of section 148A[30]**[**does not exceed seven days**]**, such remaining period shall be extended to seven days and the period of limitation under this sub-section shall be deemed to be extended accordingly.*
> *Explanation.—For the purposes of clause (b) of this sub-section, "asset" shall include immovable property, being land or building or*

both, shares and securities, loans and advances, deposits in bank account.

[(1A) Notwithstanding anything contained in sub-section (1), where the income chargeable to tax represented in the form of an asset or expenditure in relation to an event or occasion of the value referred to in clause (b) of sub-section (1), has escaped the assessment and the investment in such asset or expenditure in relation to such event or occasion has been made or incurred, in more than one previous years relevant to the assessment years within the period referred to in clause (b) of sub-section (1), a notice under section 148 shall be issued for every such assessment year for assessment, reassessment or recomputation, as the case may be.]

(2) The provisions of sub-section (1) as to the issue of notice shall be subject to the provisions of section 151.]"

A plain reading of Section 149(1) of the Act makes it clear that Section 149(1) draws a clear and deliberate distinction between two classes of cases. Clause (a) thereof bars issuance of a notice under Section 148 once three years have elapsed from the end of the relevant assessment year, save where the case falls within clause (b). Clause (b) in turn, extends this outer limit to ten years but only where the Assessing Officer is in possession of books of account, documents, or evidence revealing that income chargeable to tax, represented in the form of an asset, an item of expenditure, or an entry

in the books of account, has escaped assessment "to the extent of or is likely to amount to fifty lakh rupees or more".

22. Moreover, the aforesaid two provisos disclose that they operate to exclude from the computation of the period of limitation, two specific and narrowly defined categories of time: *first*, the time or extended time allowed to the assessee under a show cause notice issued under Section 148A(b); and *second*, any period during which the proceedings under Section 148A stood stayed by an order or injunction of a Court. The sixth proviso operates only as a corollary to the fifth proviso, ensuring that where, after excluding such time, the residual period available to the Assessing Officer to pass an order under Section 148A(d) does not exceed seven days, that residual period is deemed extended to seven days. Neither proviso purports to enlarge the substantive threshold prescribed under clause (b) of Section 149(1), nor do they operate to convert a case that never crossed the Rs.50,00,000/- threshold into one governed by the extended period, but their function is confined to computing time, not to expanding jurisdiction.

23. The threshold of Rs.50,00,000/- is not a matter of procedural detail, but it is the very jurisdictional gateway through which the extended period of limitation becomes available at all. In the absence of such satisfaction of that threshold, a case remains, for all purposes of Section 149 governed by the ordinary three year period under clause (a), and the machinery of clause (b) together with whatever exclusions the provisos to the sub-section may afford in aid of that machinery simply does not come into play.

24. On the facts before us, this threshold question answers itself from the Revenue's own record. Respondent No.1 in the order dated 23.04.2024 passed under Section 148A(d) of the Act itself quantified the income alleged to have escaped assessment at Rs.47,29,000/-, a figure admittedly and demonstrably below the statutory threshold of Rs.50,00,000/-. This is not a matter of the petitioner's own computation or a disputed figure requiring adjudication, but it is the Revenue's own finding recorded in its own order. Once that figure is taken at face value and there is no basis on this record to take it otherwise, the case could never have fallen within clause (b) of Section 149(1), and the only period available to the Revenue for

issuance of a notice under Section 148 was the ordinary three year period under clause (a) which is expiring on 31.03.2024, being three years from the end of the assessment year 2020-21.

25. On the facts of the present case, it is not disputed and indeed cannot be disputed that no order or injunction of any Court stayed the proceedings under Section 148A at any point in time. The second limb of the fifth proviso, therefore, has no application whatsoever. Even granting the Revenue the fullest benefit of this exclusion computed from the outer limit of 31.03.2024, the extended date could not, on any view of the matter, travel far beyond the closing days of April, 2024 and even so this exercise is one that presupposes a case otherwise falling within clause (b), a premise that as we have already found does not exist here at all since the escaped income being admittedly below Rs.50,00,000/-. The provisos cannot be pressed into service to rescue a notice that was never within the extended period to begin with, merely because a fortuitous handful of days might otherwise be salvaged by their arithmetic.

26. What weighs still more heavily against the Revenue is that neither the order dated 23.04.2024 under Section 148A(d), nor the

approval accorded by respondent No.3 under Section 151 of the Act, record any application of mind whatsoever to the fifth or sixth provisos, to the exclusion of any period, or to the question of whether the quantum found Rs.47,29,000/- was at all capable of sustaining action beyond the ordinary three year period.

27. The decisions relied upon by the learned Senior Standing Counsel for Income Tax Department are distinguishable on this very ground. In each of those cases, the record disclosed a contemporaneous and reasoned invocation of the extended computation by the authority itself, at the time the impugned action was taken and not a post-facto justification constructed for the first time before the Writ Court to salvage an admittedly delayed notice.

28. It is also a well settled principle of administrative law that the validity of an order must be judged by the reasons recorded therein and cannot be supplemented or improved upon by reasons found for the first time in a counter affidavit or urged for the first time at the Bar. Respondent No.3 in granting approval under Section 151 of the Act was obliged to independently satisfy itself on the material placed before it, including the petitioner's detailed reply dated 29.03.2024

with its supporting documents, both as to the correctness of the quantum alleged to have escaped assessment and as to whether the notice proposed to be issued fell within the time permitted by law. The material on record discloses no such application of mind. However, what it discloses instead is a mechanical endorsement of a proposal that was, on its own admitted facts, both factually erroneous (the property purchase of Rs.1,31,55,000/- pertaining to the succeeding assessment year 2021-22, and not to the year under consideration) and legally unsustainable on the ground of limitation.

29. Therefore, we are unable to accept the Revenue's contention that the fifth and sixth provisos to Section 149(1) can be invoked for the first time before this Court to cure what was on the face of the Revenue's own record a notice issued beyond the period permitted under Section 149(1)(a) of the Act, in a case that never satisfied the threshold prescribed under clause (b) thereof. A sanctioning authority cannot mechanically accord approval without examining whether the case falls within the ordinary or the extended period of limitation and then seek shelter after the event behind provisos that were never considered, never invoked, and never applied at the time the impugned

action was taken. Such an approach reduces the safeguard of Section 151 which is intended to interpose an independent, informed check upon the reopening of a concluded or time-barred assessment to an empty formality, and this Court would be failing in its duty if it permits such a mechanical exercise of power to stand merely because a technical argument on limitation is later found capable of being mounted in defence of it.

30. In view of the foregoing reasons, we hold that the notice dated 24.04.2024 issued under Section 148 of the Act, and the approval accorded by respondent No.3, under Section 151 of the Act, are barred by limitation under Section 149(1)(a) of the Act since it was not able to satisfy the threshold prescribed under Section 149(1)(b), and the benefit of the fifth and sixth provisos to Section 149(1) being unavailable to the Revenue in the facts and circumstances discussed above. The consequent order dated 23.04.2024 under Section 148A(d) of the Act, the notice dated 24.04.2024 under Section 148 of the Act, the impugned assessment order dated 31.10.2025 passed under Section 147 read with Section 144B of the Act, and the penalty order under Section 271AAC(1) of the Act, are all rendered void ab

initio and unsustainable in law. The instant Writ Petition accordingly stands **allowed** and the order dated 23.04.2024 passed under Section 148A(d) of the Act, the notice dated 24.04.2024 issued under Section 148 of the Act, the assessment order dated 31.10.2025 passed under Section 147 read with Section 144B of the Act, and the penalty order passed under Section 271AAC(1) of the Act for the assessment year 2020-21, are hereby set aside and quashed.

31. The question of law framed in the instant case is therefore answered in favour of the petitioner and against the Revenue.

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

P. SAM KOSHY, ACJ

NARSING RAO NANDIKONDA, J

Date: 30.10.2026
GSD