

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

**FIRDAY, THE TWENTY FIRST DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

**THE HONOURABLE SRI JUSTICE P.SAM KOSHY
AND**

THE HONOURABLE SRI JUSTICE NARSING RAO NANDIKONDA

WRIT PETITION NOS: 39706, 38716, 39666 OF 2022 AND W.P.NO.1219 OF 2023

W.P.No.39706 of 2022

Between:

M/s RAJA PUSHPA PROPERTIES PRIVATE LIMITED, Plot No. 34, Rajapushpa House, Silicon Valley, Madhapur, Hyderabad-500081. Rep. by its Chairman/Director.

.....PETITIONER

AND

1. Assessment Unit, Income Tax Department, National Faceless Assessment Centre, Delhi, Income-tax Department, Ministry of Finance, Room No. 401, 2nd Floor, E-Ramp, Jawaharlal Nehru Stadium, Delhi-110003.
2. Deputy/Assistant Commissioner of Income-Tax, Circle 3(1), Signature Towers, Kondapur, Hyderabad-500084.
3. Principal Commissioner of Income-tax - 1, IT Towers, Masab Tank, Hyderabad-500004.

.....RESPONDENTS

Petition Under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the impugned order dt. 29/09/2022 passed u/s 143(3) r.w.s. 144B of the Act, for A.Y 2020-21, vide Document Identification No.(DIN) ITBA/AST/S/143(3)/2022-23/1046122105(1), without following the principles of Natural justice and the due procedure of law envisaged under

section 144B of the Act, as void, illegal and contrary to the provisions of Income-tax Act.

I.A.NO:1 OF 2022

Petition Under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the impugned order dt.29/09/2022 passed u/s 143(3) r.w.s. 1448 of the Act, for A.Y 2020-21, vide Document Identification No.(DIN) ITBA/AST/S/143(3)12022-23/1046122105(1) and stay the collection of arbitrary demand.

I.A.NO:1 OF 2023

Between

1. Assessment Unit, Income Tax Department, National Faceless Assessment Centre, Delhi, Income-tax Department, Ministry of Finance, Room No. 401, 2nd Floor, E-Ramp, Jawaharlal Nehru Stadium, Delhi-110003.
2. Deputy/Assistant Commissioner of Income-Tax, Circle 3(1), Signature Towers, Kondapur, Hyderabad-500084.
3. Principal Commissioner of Income-tax - 1, IT Towers, Masab Tank, Hyderabad-500004.

.....PETITIONERS

AND

M/s RAJA PUSHPA PROPERTIES PRIVATE LIMITED, Plot No. 34, Rajapushpa House, Silicon Valley, Madhapur, Hyderabad-500081. Rep. by its Chairman/Director.

....RESPONDENT

Petition Under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to vacate the orders dated.29/10/2022 in W.P.No.39706 of 2022, in the interest of justice.

Counsel for the Petitioner : SRI DUNDU MANMOHAN

Counsel for the Respondents : SRI J.V.PRASAD & Ms. K.M. MATA

W.P.NO: 38716 OF 2022

Between:

Optival Health Solutions Private Limited, 11-6-56, Sy. No. 257 and 258/1, Opp. IDPL Railway Siding Road, Moosapet, Kukatpally, Hyderabad -500037, Telangana, India represented by its Director- Gangadi Madhukar Reddy, S/o. Gangadi Veera Reddy, aged about 55 years, R/o. Hyderabad.

.....PETITIONER

AND

1. UNION OF INDIA, represented by its Secretary, Department of Revenue, Ministry of Finance, North Block, New Delhi- 110001.
2. Additional/Joint/Deputy/Assistant Commissioner of Income Tax, National Faceless Assessment Centre, Delhi.

.....RESPONDENTS

Petition Under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, direction or order more particularly in the nature of a writ of mandamus declaring the impugned order of assessment dated 29/09/2022 passed by Respondent No. 2 for the assessment year 2020-21 as being void, illegal, arbitrary, without authority of law, violative of Article 14 of the Constitution of India and violative of principles of natural justice and violative of provisions of the Income Tax Act, 1961 and consequently set aside the same.

I.A.NO:1 OF 2022

Petition Under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings with respect to the assessment order dated 29/09/2022 passed by Respondent No. 2 for the assessment year 2020-21.

I.A.NO:1 OF 2023

Between

1. UNION OF INDIA, represented by its Secretary, Department of Revenue, Ministry of Finance, North Block, New Delhi- 110001.

2. Additional/Joint/Deputy/Assistant Commissioner of Income Tax, National Faceless Assessment Centre, Delhi.

.....PETITIONERS

AND

Optival Health Solutions Private Limited, 11-6-56, Sy.No.257 and 258/1, Opp ; IDPL Railway Siding Road, Moosapet, Kukatpally, Hyderabad -500037, Telangana, India represented by its Director- Gangadi Madhukar Reddy, S/o. Gangadi Veera Reddy, aged about 55 years, R/o. Hyderabad.

.....RESPONDENT

Petition Under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to vacate the orders dated.20/10/2022 in W.P.No.38716 of 2022, in the interest of justice.

Counsel for the Petitioner : SRI R.S.ASSOCIATES

Counsel for the Respondent No.1 : SMT B.KAVITHA YADAV (CENTRAL GOVT COUNSEL)

Counsel for the Respondent No.2 : SRI J.V.PRASAD & Ms. K.MAMATA

W.P.NO: 39666 OF 2022

Between:

Dhanlaxmi Iron Industries Private Limited, having its Registered Office at 15-9-358/9, Mukhtyargunj, Hyderabad - 500012, Telangana and Represented by its authorized signatory Mr. Rajesh Gupta

.....PETITIONER

AND

1. Union of India, represented by its Secretary, Department of Revenue, Ministry of Finance, North Block, New Delhi -110001.
2. Assistant Commissioner of Income Tax, National E-Assessment Center, Room No. 401, 2nd Floor, Jawaharlal Nehru Stadium, Delhi- 110003.
3. The Assessment Unit, Income Tax Department, National Faceless Assessment Centre, Room No. 401, 2nd Floor, E-Ramp, Jawaharlal Nehru Stadium, Delhi – 110003.

.....RESPONDENTS

Petition Under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, Order or Direction more particularly in the nature of a Writ of Mandamus declaring the Impugned Assessment Order dated 29.09.2022 for AY 2020-21 in PAN. AABCD0679C bearing Order No . ITBA/AST/S/143(3)12022-23/1046122156(1) as being void, illegal arbitrary, violative of Article 14 of the Constitution of India and violative of Principles of Natural Justice.

I.A.NO:1 OF 2022

Petition Under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pending disposal of the writ petition, this Hon'ble Court may be pleased to stay the operation of the penalty notice dated 29-09-2022 bearing DIN. ITBA/PNL/S/270A/2022- 23/1046122367(1).

I.A.NO:2 OF 2022

Petition Under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pending disposal of the writ petition, this Hon'ble Court may be pleased to may be pleased to stay all further proceedings and consequential actions including collection of tax pursuant to the Impugned Assessment Order dated 29.09.2022 for AY 2020-21 in PAN. AABCD0679C bearing Order No . ITBA/AST/S/143(3)/2022-23/1046122156(1).

I.A.NO: 1 OF 2023

1. Union of India, represented by its Secretary, Department of Revenue, Ministry of Finance, North Block, New Delhi -110001.
2. Assistant Commissioner of Income Tax, National E-Assessment Center, Room No. 401, 2nd Floor, Jawaharlal Nehru Stadium, Delhi- 110003.
3. The Assessment Unit, Income Tax Department, National Faceless Assessment Centre, Room No. 401, 2nd Floor, E-Ramp, Jawaharlal Nehru Stadium, Delhi – 110003.

.....PETITIONERS

AND

Dhanlaxmi Iron Industries Private Limited, having its Registered Office at 15-9-358/9, Mukhtyargunj, Hyderabad - 500012, Telangana and Represented by its authorized signatory Mr. Rajesh Gupta

.....RESPONDENT

Petition Under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to vacate the orders dated 28/10/2022 in W.P.No.30666 of 2022, in the interest of justice.

Counsel for the Petitioner : SRI V.ANEESH

Counsel for the Respondent No.1 : SMT B.KAVITHA YADAV (CENTRAL GOVT COUNSEL)

Counsel for the Respondent Nos.2 & 3 : SRI J.V.PRASAD & Ms K.MAMATA

W.P.NO:1219 OF 2023

Between:

K. Yadagiri, S/o. Late. K. Gowraiah, Aged about 63 Years, Occ. Retired Government Employee, R/o. Flat No. 109, Himasai Gardens, Gulmohar Apartments, beside Naturals Saloon, Jawahar Nagar, Street No. 5, Hyderabad -500020.

.....PETITIONER

AND

1. MINISTRY OF FINANCE, National Faceless Assessment Center
Represented by Its Principal Chief Commission of Income Tax Department
Room No 356 C.R. BUILDING, IP Estate, New Delhi, Delhi 110002.
2. Deputy Commissioner of Income TAX Regional Faceless Assessment Center,
Income Tax Department, Central circle-1(4) Ayakar Bhavan, Opposite to
L.B.Stadium, Basheer bagh, Hyderabad.
3. Assessment Officer, Regional Faceless Assessment Center, Income Tax
Department, Central circle-1(4) Ayakar Bhavan, Opposite to L.B.Stadium,
Basheer bagh, Hyderabad.

....RESPONDENTS

Petition Under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be

pleased to issue an appropriate writ, order or dire particularly one in the nature of WRIT OF MANDAMUS declaring the ac respondents null and void and contrary to the provision of the Income Tax Act for not following the due procedure of law prescribed under the Income Tax Act 1961 under section 144 B and consequently quash, or set aside the final assessment order dated 28.12.2022 and demand notice issued under section 156 of Income Tax and show cause notices issued under section 274 R/W 270 A, Notice U/S 274 R/w Section 271AAC(1) of Income Tax Act.

I.A.NO:1 OF 2023

Petition Under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay of all further proceedings for appeal and subsequently stay the proceedings for the demand notice issued under section 156 for penalty proceedings Issued under sections 274 R/W 270 A, Notice U/S 274 R/w Section 271AAC (1) of Income Tax Act 1961, pending disposal of the main writ petition.

Counsel for the Petitioner : SRI MANDALA NAGENDRA BABU

Counsel for the Respondents : SRI J.V.PRASAD (SC FOR INCOME TAX)

The Court made the following COMMON ORDER

THE HON'BLE SRI JUSTICE P.SAM KOSHY

AND

THE HON'BLE SRI JUSTICE NARSING RAO NANDIKONDA

WRIT PETITION No.39706 of 2022

WRIT PETITION No.38716 of 2022

WRIT PETITION No.39666 of 2022

AND

WRIT PETITION No.1219 of 2023

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

Heard Mr. S.Ravi, learned Senior Counsel representing M/s. R.S. Associates for the petitioner in Writ Petition No.38716 of 2022; appearing for Mr. V.Aneesh, learned counsel for the petitioner in Writ Petition No.39666 of 2022, and also appearing for Mr. Dundu Manmohan along Mr. Dundu Sashank, learned counsel for the petitioner in Writ Petition No.39706 of 2022, Mr. Mandala Nagendra Babu, learned counsel for the petitioner in Writ Petition No.1219 of 2023; and Mr. J.V. Prasad & Ms. K.Mamata, learned Senior Standing Counsels for the Income Tax Department appearing on behalf of the respondents / Revenue.

2. Since the issue involved in these batch of Writ Petitions is one and same, they have been taken up and heard together and are

decided by this Common Order. However, we first intend to refer to the facts in Writ Petition No.39706 of 2022.

3. The instant writ petition is filed by the petitioner under Article 226 of the Constitution of India challenging the order dated 29.09.2022 passed by the respondent No.1 under Section 143(3) read with Section 144B of the Income Tax Act, 1961 (briefly 'the Act' hereinafter) for the assessment year 2020-21 vide Document IdentificationNo.(DIN)ITBA/AST/S/143(3)/2022-23/1046122105(1) (for short the 'impugned order').

4. The brief facts of the case are that petitioner M/s. Raja Pushpa Properties Pvt. Ltd. filed its return of income for the Assessment Year 2020-21 on 10.12.2020 declaring a total taxable income of Rs.31,87,26,740/- which was selected for scrutiny under CASS and notices under Section 143(2) of the Act were issued and further the respondent No.1 issued detailed notice under Section 142(1) of the Act to furnish all the details regarding the unexplained income. During the assessment proceedings, the Assessing Officer raised queries regarding 'other long term liabilities' amounting to Rs.246 crores shown in the balance sheet

as on 31.03.2020. The petitioner clarified on multiple occasions through detailed replies dated 15.03.2022, 22.08.2022 and 20.09.2022 stating that these liabilities pertain to advances received from customers for purchase of land parcels ranging from 1 to 4 acres each, and explicitly stated that these were not advances for flat or villa bookings as was being incorrectly presumed by the Assessing Officer. The petitioner provided details like permanent account numbers (PAN), complete address, direct contact telephone numbers, written confirmation letters from the advance-paying parties, details of the nature of property transactions, extent of land agreed to be purchased, dates of receipt of advances, and complete ledger accounts for 11 identified parties involving aggregate advances of Rs.134 crores, specifically and expressly requesting the Assessing Officer to contact the parties directly on the telephone numbers provided if further verification or clarification was needed, demonstrating full transparency and willingness to cooperate.

5. Despite the detailed submissions and comprehensive documentary evidence furnished, the respondent No.1 issued a show cause notice dated 20.09.2022 under Section 144B(1)(xii) of

the Act proposing substantial additions on the fundamentally erroneous and factually incorrect premise that the advances were received from flat / villa purchasers who were companies. This premise was wrong on two counts: firstly, the advances pertained to land purchases and not flats / villas, and secondly, out of the 11 parties who had given advances, five were individuals and only six were corporate entities, not all companies as assumed.

6. The petitioner promptly objected to this material mischaracterization through a detailed letter dated 23.09.2022 once again reiterating with supporting documentary evidence that the advances were exclusively for land transactions and not for any residential units. The petitioner further provided confirmation letters which clearly stated that Rs.22 crores out of the total Rs.134 crores under scrutiny were opening balances which were carried forward from previous assessment years and, therefore, did not represent fresh receipts during the current previous year 2019-20 under consideration. The petitioner particularly emphasized that one significant transaction with EKGE Retail LLP amounting to substantial sums was initially structured as a mortgage arrangement with stipulated interest, and that interest amount of

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Rs.27,00,000/- had been duly credited to the party's account and claimed as business expenditure in the profit and loss account, which was accepted by the Assessing Officer without any disallowance. The petitioner argued that this acceptance of the interest component made it logically and legally inconsistent for the Assessing Officer to simultaneously doubt and reject the principal advance component of the same transaction. Most significantly, the entire assessment proceedings were completed within merely five days of issuance of the show cause notice, clearly indicating a rushed, mechanical, and perfunctory process without proper, detailed, and judicious consideration of the petitioner's comprehensive responses and voluminous supporting documentation and the respondent No.1 accordingly passed the impugned order. Additionally and surprisingly, the assessment order included a separate disallowance of Rs.30,16,520/- under Section 40A(3) of the Act relating to cash payments exceeding prescribed limits which disallowance was never quantified, specified, or even remotely mentioned or alluded to in the show cause notice dated 20.09.2022 issued under Section 144B of the Act, thereby completely violating the mandatory procedure

prescribed under Section 144B of the Act which requires all proposed additions and disallowances to be specifically intimated to the assessee before passing the final assessment order.

7. Learned Senior Counsel for the petitioner primarily contended that the impugned assessment order dated 29.09.2022 passed by the respondent No.1 is fundamentally incorrect and materially erroneous by treating the advances of Rs.134 crores received from 11 identified parties as advances for flat / villa bookings from companies, when in reality these advances pertained exclusively to purchase of land parcels ranging from 1 to 4 acres each, and out of the 11 parties, five were individuals and only six were corporate entities. Despite the petitioner's repeated clarification through multiple detailed submissions dated 15.03.2022, 23.09.2022, and other correspondences, and furnishing comprehensive documentary evidence including complete details of the parties (PAN, addresses, direct contact telephone numbers), written confirmation letters from the advance-paying parties acknowledging the transactions, details of the nature and extent of land agreed to be purchased, dates of receipt of advances, and complete ledger accounts demonstrating the transaction trail, the Assessing Officer

mechanically and arbitrarily rejected the explanation without any valid basis, rational reasoning, or proper application of mind.

8. Learned Senior Counsel further contended that Rs.22 crores out of the total Rs.134 crores under scrutiny were opening balances carried forward from earlier assessment years and therefore did not represent fresh receipts during the current previous year 2019-20 under consideration, yet the Assessing Officer erroneously treated even these opening balances as unexplained cash credits chargeable to tax under Section 68 of the Act in the current assessment year, which shows a complete lack of understanding of basic accounting principles and temporal applicability of tax provisions.

9. Learned Senior Counsel further submitted that on 20.09.2022 at 06:00 P.M. the respondent No.1 issued a show cause notice under Section 144B(1)(xii) of the Act stating that certain advances disclosed under other long-term liabilities were significantly high and exceeded the value of flats / villas. He further clarified that the advances in question pertained to purchase of land only and not to the value of flats / villas. Furthermore, out of 11 parties from

whom advances were received, 5 were individuals and not companies, contrary to the assertion made in the show cause notice. In response to the queries raised, the petitioner also furnished complete details of the parties confirming payment of advances. However, if the Assessing Officer had any doubt regarding the genuineness of these transactions, notices under Section 133(6) of the Act could have been issued to the concerned parties whose complete details including PAN, addresses, and contact numbers were already provided. Thus, mere mechanical rejection without calling for any further particulars or conducting any independent verification demonstrates non-application of mind and also amounts to a violation of principles of natural justice.

10. Moreover, the learned Senior Counsel submitted that petitioner's repeated request to the Assessing officer to contact the 11 parties directly on the telephone numbers provided to verify the identity, genuineness, and creditworthiness of the transactions, thereby demonstrates full transparency, complete willingness to cooperate and yet the Assessing Officer made no attempt whatsoever to contact even a single party or conduct any independent enquiry, instead chose to mechanically and arbitrarily

reject the documentation furnished by the petitioner without any rational basis or valid reason.

11. Furthermore, the learned Senior Counsel also contended that the show cause notice dated 20.09.2022 was vague and did not quantify the proposed additions or disallowances made under Section 40A(3) of the Act. For instance, in the show cause notice it was stated in general terms that 'significant amount of cash payments were made in excess of Rs.10,000/-' but did not quantify the specific amount proposed to be disallowed. It was only in the Final Assessment Order that total disallowance of Rs.30,26,520/- was mentioned for the first time. Thus, this approach is fundamentally flawed and violates the principles of natural justice as the petitioner was not given any opportunity to explain or justify the specific cash payments that were proposed to be disallowed.

12. Lastly, the learned Senior Counsel also submitted that the delay in filing initial responses was on account of the COVID-19 pandemic period (15.03.2020 to 28.02.2022 as per Supreme Court's suo-moto order) when there was lack of adequate staff to collate voluminous information, and moreover, the initial notice

itself was vague and did not specify exact requirements. However, from the second notice onwards, the petitioner had been prompt in filing detailed responses with supporting evidence, and the Assessing Officer cannot now take advantage of his own wrong in not following the due procedure prescribed under Section 144B of the Act. Thus, praying this Court to set-aside the impugned order passed by respondent No.1 and also allow the present writ petition.

13. *Per contra*, learned Senior Standing Counsel for the Revenue contended that the assessment proceedings were conducted in accordance with the provisions of law and adequate opportunities were provided to the petitioner throughout the assessment process. It was submitted that the petitioner was issued notices under Section 143(2) of the Act on 29.06.2021, followed by detailed questionnaires on 21.02.2022, 09.03.2022, and 22.08.2022 calling for specific information and documents, and that the Assessment Order was passed only after careful examination of the material on record and the submissions made by the petitioner from time to time.

14. Learned Senior Standing Counsel further contended that the show cause notice dated 20.09.2022 clearly set out the proposed additions and the reasons therefor, specifically highlighting that certain advances disclosed in other long-term liabilities were significantly high and exceeded the value of flats / villas that such parties were not retail buyers but companies, and that significant cash payments were made in excess of Rs.10,000/- in violation of Section 40A(3) of the Act, and the petitioner was given sufficient time and opportunity to respond to these specific concerns, to which the petitioner did file a response dated 23.09.2022. However, the learned Senior Standing Counsel argues that the petitioner merely furnished a list of parties with their PAN numbers and addresses, along with some confirmation letters but failed to provide credible evidence to establish the source of funds with the parties, their capacity to advance such large amounts, and the commercial rationale for making such huge advances for properties which were either not in existence or were of much lower value. Therefore, the Assessing Officer rightly treated these unverified advances as unexplained credits under Section 68 of the Act and made additions accordingly.

15. With regard to the disallowance under Section 40A(3) of the Act, the Senior Standing Counsel contended that the disallowance of Rs.30,26,520/- is justified as the petitioner made cash payments exceeding Rs.10,000/- per day per party during AY 2020-21, violating Section 40A(3) of the Act which mandates such payments be made through banking channels to curb unaccounted money, and while the show cause notice dated 20.09.2022 mentioned these excess cash payments and called for explanation. However, the petitioner failed to justify them or demonstrate any exception under Rule 6DD, and therefore the Assessing Officer was justified in disallowing the expenditure, and the petitioner cannot claim lack of notice merely because the exact amount was quantified only in the final Assessment Order. The learned Senior Standing Counsel thus submits that there was no violation of principles of natural justice and the petitioner cannot claim denial of opportunity of being heard.

16. Learned Senior Standing Counsel contended that there was substantial and unexplained delay on the part of the petitioner in filing responses to the notices issued under Section 143(2) of the Act. The initial notice under Section 143(2) of the Act was issued

on 14.07.2021, but the petitioner filed its first detailed response only on 19.02.2022 i.e. after a delay of more than 7 months. Learned Senior Standing Counsel submitted that such inordinate delay hampered the assessment proceedings and indicates lack of seriousness and cooperation on the part of the petitioner. That despite the delay, the department accommodated the petitioner by issuing further notices and questionnaires on 09.03.2022 and 22.08.2022, calling for specific details and clarifications.

17. Learned Senior Standing Counsel lastly contended that the petitioner's excuse of COVID-19 pandemic and lack of adequate staff is not acceptable, particularly when the petitioner is a corporate entity engaged in real estate business with substantial transactions and is expected to maintain proper records and documentation. However, the Senior Standing Counsel submitted that the petitioner cannot take advantage of its own wrong and delay in complying with statutory notices and then claim that adequate opportunity was not provided. It was also submitted that the assessment proceedings had to be completed within the statutory time limit prescribed under the Act, and the delay caused by the petitioner left very little time for detailed back-and-forth

correspondence, which the petitioner is now trying to project as denial of opportunity.

18. Having heard the contentions put forth on either side and on perusal of records, what is culled out is the fact that in the present writ petition the petitioner has challenged the assessment order dated 29.09.2022, passed under Section 143(3) of the Act, for the assessment year 2020-21.

19. The grounds of challenge to the said assessment order are:-

- 1) That the assessment order has been passed without following the principles of natural justice inasmuch as the Department has not granted a fair and reasonable opportunity to defend their case and also in producing relevant records before the authorities before passing the assessment order.
- 2) That the entire initiation of proceedings under Section 143(3) is in direct contravention to the manner and procedure prescribed under Section 144B, a provision of law which stood amended w.e.f. 01.04.2021 onwards, whereby the entire assessment proceedings was mandatorily to be drawn in a faceless manner. Whereas, in the instant case, the entire

proceedings have been drawn by the Jurisdictional Assessing Officer.

20. In the instant case, for the assessment year 2020-21, return of income was filed on 10.10.2020 declaring a taxable income of Rs.31,87,26,740/-. The said return was selected for scrutiny and a notice under Section 143(2) of the Act was issued to the petitioner. Thereafter, a notice under Section 142(1) was issued on 21.02.2022 calling upon the petitioner to furnish details of the documents in respect of the receipt of cash. The petitioner submitted his detailed reply along with all relevant cogent annexures available on 15.03.2022. Based upon the reply that was furnished by the petitioner, the respondent No.1 accepted the supporting evidence with regard to other long-term liabilities so far as an amount of Rs.7 crores is concerned. However as regards an amount of Rs.134,11,84,938/- was doubted. Again the petitioner was issued with a notice under Section 142(1) on 22.08.2022 from the respondent No.1 calling upon the petitioner to furnish additional details including advances received from customers such as PAN, address of the parties, contact details, confirmation, etc. The petitioner gave three responses; one on 10.09.2022,

14.09.2022, and 15.09.2022, and thereafter the authorities again issued a show-cause notice on 20.09.2022 to which also the petitioner gave his reply on 23.09.2022 and thereafter the impugned assessment order has been passed on 29.09.2022.

21. Upon perusal of the responses submitted by the petitioner, certain facts which are apparently evident is that the petitioner has not been able to produce complete details including PAN, address of the parties, etc. in spite of repeat notices being issued by the Department and based upon which necessary verification could had been conducted. Further, the petitioner also was not able to explain credit worthiness of the advances so made particularly in respect of an amount of Rs.134,11,84,938/-.

22. Apart from the aforesaid facts, the admission on the part of the petitioner himself of having received repeated show-cause notices by the Department from time to time, goes to establish that the contention of the petitioner being denied fair opportunity of defence would not be sustainable as the Department in fact had given ample opportunity to the petitioner to appear and defend its case by leading cogent and substantial materials to substantiate

the contents of the show-cause notice. Thus, this Bench is of the firm view that the contention of the petitioner of the impugned assessment order being in violation of the principles of natural justice is not sustainable and the same stands decided in favour of the Revenue and against the petitioner.

23. Now comes the second question of the assessment order being in violation of the provisions of Section 144B of the Act.

24. The provisions of the Income Tax Act stood amended w.e.f. 01.04.2021 by virtue of the Finance Act, 2021. With the insertion of Section 144B, all the assessments, reassessments and recomputations which are proposed to be carried out under Section 144(3) has to be done in a faceless manner. The issue of faceless assessment becoming mandatory for proceedings drawn after 01.04.2021 already stands adjudicated upon in a series of litigations before this High Court in the case of **Kankanala Ravindra Reddy and Others vs. The Income Tax Officer and Others** (batch of writ petitions, lead case being A.P.No.25903 of 2022 decided on 14.09.2023). In the said judgment, the Division Bench of this High Court held at paragraph Nos.27 to 36 as under:

"27. In the present case, both the proceedings i.e., the impugned proceedings under Section 148A of the Act, as well as the consequential notices under Section 148 of the Act were issued by the local jurisdictional officer and not in the prescribed faceless manner. The order under Section 148A(d) of the Act and the notices under Section 148 of the Act are issued on 29.04.2022, i.e., after the "Faceless Jurisdiction of the Income Tax Authorities Scheme, 2022" and the "e-Assessment of Income Escaping Assessment Scheme, 2022" were introduced.

28. From the afore given factual matrix, firstly the statutory provisions enumerated in the preceding paragraphs and secondly, the subsequent direction given by the Hon'ble Supreme Court in the case of Ashish Agarwal, supra, what is clearly reflected is the fact that when the Hon'ble Supreme Court had partly allowed the petitions which were filed by the Union of India challenging the judgements of various High Courts whereby the notice under Section 148 of the unamended Act were set aside by the High Courts, the Hon'ble Supreme Court has only permitted the Union of India to proceed further with the reassessment proceedings under the amended provision of law, more particularly, as amended by the Finance Act, 2021. It never intended the authorities concerned to continue with the proceedings from the stage of the issuance of notices under Section 148, nor is the directions to that effect. And there cannot be any confusion, ambiguity or mis-conception for the respondent-Department to have in this regard.

29. *The Hon'ble Supreme Court has in paragraph No.7 specifically held that the High Courts have rightly held that the benefit of new provisions shall be made available in respect of the proceedings relating to past assessment years. Further, the Hon'ble Supreme Court again in paragraph No.8 very emphatically had said that the proceedings ought not to have been issued under the unamended Act. Rather ought to have been issued under the substituted provisions as per the Finance Act, 2021. Further, in the same paragraph clearly directed the Income Tax Department to proceed further as per the Finance Act, 2021, subject to compliance of all the procedural requirements and defences available to the assessee under the substituted provisions under the Finance Act, 2021. The fact that the Hon'ble Supreme Court allowed the notice earlier issued under Section 148 be treated as notice one under Section 148A and further it was also be treated as the show cause notice issued under Section 148A(b) by itself establishes the fact the directions given by the Hon'ble Supreme Court for the respondent-Department was to proceed further in accordance with the substituted provisions which stood introduced by the Finance Act, 2021.*

30. *In the instant case, undisputedly the respondent-Department has not proceeded against the petitioner under the substituted provisions of the Finance Act, 2021. Rather, it proceeded with the unamended provisions of law. This in other words takes the position back to the stage as it stood when the initial notices under Section 148 under the unamended provisions of law were issued. This in other*

words also takes us to a position or a stage prior to the large number of writ petitions being allowed across the country, approximately 9,000 in number and confirmed by the Hon'ble Supreme Court also vide the judgement of Ashish Agarwal, supra.

31. It is well settled principle of law that where the power is given to do certain things in certain way, the thing has to be done in that way alone and no any other manner which is otherwise not provided under the law.

32. The Hon'ble Supreme Court in the case of Chandra Kishore Jha Vs. Mahaveer and others¹ in paragraph No.17 laying down the aforesaid principle held as under "it is well settled solitary principle that if statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner. The said principle of law was further reiterated in the case of Cherrukuramani Vs. Chief Secretary Government of Andhra Pradesh and others², wherein, again in paragraph No.14, the aforesaid principle has been reinforced by the Hon'ble Supreme Court holding that "where law prescribe a thing to be done in a particular manner following a particular procedure, it shall have to be done in the same manner following the provisions of law without deviating from the prescribed procedure. The said principle has again recently been reiterated and followed in the case of Municipal Corporation Greater Mumbai Vs.

¹ 1999 8 SCC 266

² 2015 13 SCC 722

*Abhilash Lal and others*³, and in the case of *Opto Circuit India Limited Vs. Axis Bank and others*⁴ and again in the case of *Union of India Vs. Mahesh Singh*⁵. In the case of *Tata Chemicals Limited Vs. Commissioner of Customs (preventive) Jam Nager*⁶, wherein it has been held that there can be no stopple against the law. If the law requires something to be done in a particular manner, then it must be done in that manner, if it is not done in that manner then it would have no existence in the eye of law. In paragraph 18 of the said judgment, the Hon'ble Supreme Court held as under:

"The Tribunal's judgment has proceeded on the basis that even though the samples were drawn contrary to law, the appellants would be estopped because their representative was present when the samples were drawn and they did not object immediately. This is a completely perverse finding both on fact and law. On fact, it has been more than amply proved that no representative of the appellant was, in fact, present at the time the Customs Inspector took the samples. Shri K.M. Jani who was allegedly present not only stated that he did not represent the Clearing Agent of the appellants in that he was not their employee but also stated that he was not present when the samples were taken. In fact, therefore, there was no representative of the appellant when

³ 2020 13 SCC 234

⁴ 2021 6 SCC 707

⁵ CAP.No.4807 of 2022

⁶ 2015 11 SCC 628

the samples were taken. In law equally the Tribunal ought to have realized that there can be no estoppel against law. If the law requires that something be done in a particular manner, it must be done in that manner, and if not done in that manner has no existence in the eye of law at all. The Customs Authorities are not absolved from following the law depending upon the acts of a particular assessee. Something that is illegal cannot convert itself into something legal by the act of a third person."

33. *If we look into the principle of law laid down by the Hon'ble Supreme Court as enumerated in the preceding paragraphs and when we look into the facts of the present case, it would clearly reflect that the Parliament had by virtue of the Finance Act 2021, brought certain amendments to the provisions of the Income Tax Act, more particularly, in respect of the manner in which the reassessment and the procedure to be adopted by the Income Tax Department. The amendment was brought with an intention to make the law more transparent and effective. The Hon'ble Supreme Court also while deciding the case of Ashish Agarwal, supra, as is discussed with in the preceding paragraph had specifically directed the Union of India to proceed further in terms of the substituted provisions brought in by way of Finance Act 2021.*

34. *What is also relevant to take note of the fact that the Hon'ble Supreme Court while exercising its power under Article 142 of the Constitution of India has also not relaxed*

the applicability of the Finance Act 2021. Rather the Hon'ble Supreme Court in very clear and unambiguous terms had held that the notices issued under the un-amended provisions, which were struck down by the High Court, shall be treated as a notice under new amended provisions and the Union of India was directed to proceed further from that stage in terms of the amended provisions of law. In spite of such specific clear directions by the Hon'ble Supreme Court, the Union of India for reasons best known again proceeded with the procedure as it stood prior to the amended provisions which came into force from 01.04.2021.

35. *In view of the aforesaid discussions, it is by now very clear that the procedure to be followed by the respondent-Department upon treating the notices issued for reassessment being under Section 148A, the subsequent proceedings was mandatorily required to be undertaken under the substituted provisions as laid down under the Finance Act, 2021. In the absence of which, we are constrained to hold that the procedure adopted by the respondent-Department is in contravention to the statute i.e. the Finance Act, 2021, at the first instance. Secondly, it is also in direct contravention to the directives issued by the Hon'ble Supreme Court in the case of Ashish Agarwal, supra.*

36. *For all the aforesaid reasons, the impugned notices issued and the proceedings drawn by the respondent-Department is neither tenable, nor sustainable. The notices so issued and the procedure adopted being per se illegal, deserves to be and are accordingly set aside/quashed. As a*

consequence, all the impugned orders getting quashed, the consequential orders passed by the respondent-Department pursuant to the notices issued under Section 147 and 148 would also get quashed and it is ordered accordingly. The reason we are quashing the consequential order is on the principles that when the initiation of the proceedings itself was procedurally wrong, the subsequent orders also gets nullified automatically."

25. In the instant case also, the Department has not been able to show one good reason as to why the amended provisions as per the Finance Act, 2021 insofar the proceedings to be initiated in a faceless manner could not be done. In the counter also the Department has been silent so far as the faceless assessment part is concerned. The judgment in the case of **Kankanala Ravindra Reddy and Others** (supra) also squarely applies to the facts of this case and the impugned assessment order deserves to be and is accordingly set aside / quashed. The second ground thus stands decided in favour of the assessee and against the Revenue. The impugned order therefore is not sustainable and the same deserves to be and accordingly set aside / quashed and the consequential orders also would thereby be not sustainable and the same also are

set aside / quashed. The Writ Petition No.19706 of 2022 accordingly stands allowed.

26. Coming to Writ Petition No.1219 of 2023 here also the factual details narrated by the petitioner in the writ petition seems to be two fold as in the earlier case i.e. Writ Petition No.38706 of 2022. Here also the impugned order has been assailed on two grounds; one is the ground of violation of the principles of natural justice and the other is the impugned order being violative and in contravention to the provisions and procedure prescribed under Section 144B of the Act.

27. In the impugned order in paragraph No.2 the details of the opportunity and hearing being given to the petitioner is being reflected in tabular form. Surprisingly, the 4th column of the table would show that the petitioner has not effectively responded to each of the notices issued. Then comes the question as to whether the notices were in fact served upon the petitioner or not. A plain reading of the affidavit filed by the petitioner in paragraph Nos.2 to 6 gives a clear indication of the petitioner admitting the fact of receiving the notices which were issued time and again, and which

the petitioner on receipt of the same, have also confided with his auditors and other consultants. In view of the same, as has been held in Writ Petition No.38706 of 2022, the question of violation of principle of natural justice in this case also stands decided against the petitioner and in favour of the Revenue.

28. As regards the second question of the impugned order being in violation of the provisions of Section 144B of the Act, there is no dispute of the fact that the impugned order of assessment having been passed by the Jurisdictional Assessing Officer of the concerned unit in the Income Tax Department and whether the order issued by the Jurisdictional Assessing Officer is in violation of Section 144B or not has been extensively dealt with while deciding the second issue in Writ Petition No.38706 of 2022. In view of the same, applying the same principles, the second issue raised by the petitioner in this case also stands decided in favour of the petitioner and against the Revenue. The proceedings ought to have been initiated in a faceless manner as is envisaged under Section 144B of the Act in respect of the proceedings initiated after 01.04.2021. The impugned order therefore is not sustainable and the same deserves to be and accordingly set aside / quashed and

the consequential orders also would thereby be not sustainable and the same also are set aside / quashed. Accordingly, Writ Petition No.1219 of 2023 also stands allowed.

29. Coming to Writ Petition No.38716 of 2022, the grounds raised by the petitioner in this case are also similar to the facts and circumstances in Writ Petition No.39706 of 2022. Here also the impugned order has been assailed on the same grounds of it being in violation of the principles of natural justice and being in violation of the provisions and procedure prescribed under Section 144B of the Act. Since these two issues have already been dealt with extensively and decided in Writ Petition No.39706 of 2022 i.e. one in favour of the Revenue and the other in favour of the petitioner, on similar lines Writ Petition No.38716 of 2022 also stands allowed.

30. Lastly, in Writ Petition No.39666 of 2022 also the grounds raised by the petitioner are also similar to the facts and circumstances narrated in Writ Petition No.39706 of 2022. Again in this case also, the petitioner assailed the impugned order being in violation of the principles of natural justice and it being in violation of the provisions and procedure prescribed under Section 144B of

the Act and of these two issues one was decided in favour of the Revenue and other in favour of the petitioner. Therefore, on similar lines, this writ petition also stands allowed.

31. In the result, the four writ petitions stands allowed.

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

Sd/-P.PONNA KRISHNA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

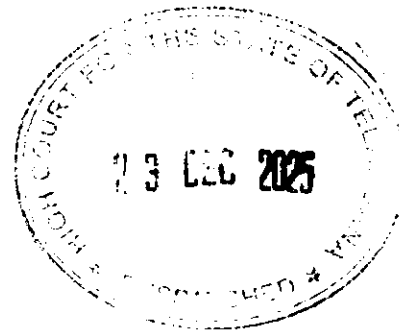
1. The Assessment Unit, Income Tax Department, National Faceless Assessment Centre, Delhi, Income-tax Department, Ministry of Finance, Room No. 401, 2nd Floor, E-Ramp, Jawaharlal Nehru Stadium, Delhi-110003.
2. The Deputy/Assistant Commissioner of Income-Tax, Circle 3(1), Signature Towers, Kondapur, Hyderabad-500084.
3. The Principal Commissioner of Income-tax - 1, IT Towers, Masab Tank, Hyderabad-500004.
4. The Secretary, Union Of India, Department of Revenue, Ministry of Finance, North Block, New Delhi- 110001.
5. The Additional/Joint/Deputy/Assistant Commissioner of Income Tax, National Faceless Assessment Centre, Delhi.
6. The Principal Chief Commissioner of Income Tax Department, MINISTRY OF FINANCE, National Faceless Assessment Center Room No 356 C.R. BUILDING, IP Estate, New Delhi, Delhi 110002.
7. The Deputy Commissioner of Income TAX Regional Faceless Assessment Center, Income Tax Department, Central circle-1(4) Ayakar Bhavan, Opposite to L.B.Stadium, Basheer bagh, Hyderabad.
8. The Assessment Officer, Regional Faceless Assessment Center, Income Tax Department, Central circle-1(4) Ayakar Bhavan, Opposite to L.B.Stadium, Basheer bagh, Hyderabad
9. One CC to SRI MANDALA NAGENDRA BABU, Advocate [OPUC]
10. One CC to SRI J.V.PRASAD & Ms. K.MAMATA, Advocate [OPUC]
11. One CC to SRI V.ANEESH, Advocate (OPUC)
12. One CC to SRI DUNDU MANMOHAN, Advocate (OPUC)
13. One CC to SMT B.KAVITHA YADAV (CENTRAL GOVT COUNSEL), Advocate (OPUC)
14. One CC to SRI R.S.ASSOCIATES, Advocate (OPUC)
15. Two CD Copies

SA

18

HIGH COURT

DATED: 21/11/2025



COMMON ORDER

**WP. NOS: 39706, 38716,
39666 OF 2022 AND
W.P.NO.1219 OF 2023**

**ALLOWING ALL THE WRIT PETITIONS
WITHOUT COSTS.**

*17 copies
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22/12/25*