Reserved on : 14.08.2025
Pronounced on : 21.08.2025

R

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF AUGUST, 2025

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.52364 OF 2019 (T - IT)

C/W

WRIT PETITION No.52319 OF 2019 (T – IT)

IN WRIT PETITION No.52364 OF 2019

BETWEEN:

M/S.LTIMINDTREE LIMITED
(SUCCESSOR IN INTEREST OF
M/S. AZTECSOFT LTD.,)
GLOBAL VILLAGE, RVCE POST
MYSORE ROAD
BENGALURU – 560 059
(REPRESENTED BY MS.SONAL BASU
GENERAL COUNSEL AND ASSOCIATE VICE PRESIDENT
D/O SRI SHAM RAUT
AGED ABOUT 39 YEARS.

... PETITIONER

(BY SRI K.K.CHYTHANYA, SR.ADVOCATE A/W
SRI S.SHARATH, ADVOCATE AND
SRI TATA KRISHNA, ADVOCATE)

AND:

1 . THE JOINT COMMISSIONER
OF INCOME TAX (OSD)
CENTRAL CIRCLE -1(3)
CENTRAL REVENUE BUILDING
QUEENS ROAD
BENGALURU – 560 001.

2 . THE DEPUTY COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE -1(3)
CENTRAL REVENUE BUILDING
QUEENS ROAD
BENGALURU – 560 001.

3 . THE ASSISTANT COMMISSIONER OF INCOME TAX
CENTRAL CIRCLE - 1(3),
CENTRAL REVENUE BUILDING,
QUEENS ROAD,
BENGALURU – 560 001.

... RESPONDENTS

(BY SRI RAVI RAJ Y.V., ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO (A) QUASH THE IMPUGNED NOTICE BEARING NO.F.NO.CDG-CM8839/09-10/CEN.CIR-1(3).BLR/2018-19 ISSUED BY THE R-1 U/S 148 R/W SECTION 150 OF THE IT ACT, DATED 29.03.2019 ENCLOSED AS ANNEXURE-A; (B) QUASH THE IMPUGNED LETTER BEARING NO.ITBA/COM/F/17/2019-20/1019232950(1) ISSUED BY THE R-2 FURNISHING THE REASONS RECORDED FOR INITIATION OF REASSESSMENT PROCEEDINGS, DATED 22.10.2019 ENCLOSED AS ANNEXURE-B; (C) QUASH THE IMPUGNED ORDER OVERRULING OBJECTION BEARING NO.ITBA/COM/F/17/2019-20/1021625043 (1), DATED 04.12.2019, PASSED BY THE R-2 ENCLOSED AS ANNEXURE – C; (D) QUASH THE IMPUGNED NOTICE BEARING

NO.F.NO.CDG-CM8839/09-10/CEN.CIR-1(3).BLR./2019-20 ISSUED BY THE R-2 UNDER SECTION 143(2), DATED 23.10.2019, ENCLOSED AS ANNEXURE-D AND (E) GRANT SUCH OTHER RELIEFS AS THIS HON'BLE HIGH COURT MAY THINK FIT INCLUDING THE COSTS OF THIS WRIT PETITION.

IN WRIT PETITION No.52319 OF 2019

BETWEEN:

M/S. LTIMINDTREE LIMITED
(SUCCESSOR IN INTEREST OF M/S. AZTECSOFT LTD.)
GLOBAL VILLAGE, RVCE POST
MYSURU ROAD
BENGALURU – 560 059
(REPRESENTED BY MS. SONAL BASU
GENERAL COUNSEL AND ASSOCIATE VICE PRESIDENT
D/O SRI SHAM RAUT
AGED ABOUT 39 YEARS.

... PETITIONER

(BY SRI K.K.CHYTHANYA, SR.ADVOCATE A/W
SRI S.SHARATH, ADVOCATE AND
SRI TATA KRISHNA, ADVOCATE)

AND:

1 . THE JOINT COMMISSIONER OF INCOME TAX (OSD)
CENTRAL CIRCLE-1(3)
CENTRAL REVENUE BUILDING
QUEENS ROAD
BENGALURU – 560 001.

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CENTRAL CIRCLE -1(3)
CENTRAL REVENUE BUIDLING

QUEENS ROAD
BENGALURU – 560 001.

... RESPONDENTS

(BY SRI RAVI RAJ Y.V., ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO (A) QUASH THE IMPUGNED NOTICE BEARING NO.F.NO.CDG-CM8839/08-09/CEN.CIR-1(3).BLR/2018-19 ISSUED BY THE R-1 U/S 148 R/W SECTION 150 OF THE IT ACT, DATED 29.03.2019 ENCLOSED AS ANNEXURE-A; (B) QUASH THE IMPUGNED LETTER BEARING NO. ITBA/COM/F/17/2019-20/1019230755(1) ISSUED BY THE R-2 FURNISHING THE REASONS RECORDED FOR INITIATION OF REASSESSMENT PROCEEDINGS, DATED 22.10.2019 ENCLOSED AS ANNEXURE-B; (C) QUASH THE IMPUGNED ORDER OVERRULING OBJECTION BEARING NO.ITBA/COM/F/17/2019-20/1021621267(1), DATED 04.12.2019, PASSED BY R-2 ENCLOSED AS ANNEXURE-C; (D) QUASH THE IMPUGNED NOTICE BEARING NO.F.NO.CDG-CM8839/08-09/CEN.CIR-1(3).BLR./2019-20 ISSUED BY THE R-2 UNDER SECTION 143(2), DATED 23.10.2019. ENCLOSED AS ANNEXURE D; (E) GRANT SUCH OTHER RELIEFS AS THIS HON'BLE HIGH COURT MAY THINK FIT INCLUDING THE COSTS OF THIS WRIT PETITION.

THESE WRIT PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 14.08.2025, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

These petitions twins in their grievance and identical in their legal challenge, are conjoined for adjudication, for the issues they raise and notices they assail are cast from the same mould. What emerges before this Court is not merely contest over set of statutory provisions of the Income Tax Act, 1961 (hereinafter referred to as 'the Act' for short), but over the very reach of jurisdiction. Since facts are common, facts as obtaining in Writ Petition No.52319 of 2019 would be narrated.

2. The petitioner, a Public Limited Company is before this Court calling in question the notice dated 29-03-2019 issued by the 1st respondent/Joint Commissioner of Income tax (OSD) under Section 148 r/w Section 150 of the Act, *inter alia.*

3. *Shorn* of unnecessary details, facts germane, are as follows: -

3.1. The petitioner is said to be engaged in the business of development and export of software. The Transfer Pricing Officer passed an order under Section 92CA of the Act in the name of one M/s Aztecsoft Limited, a Company that existed prior to the merger with the present petitioner M/s Mindtree Limited, which is now further merged with Larsen & Toubro Infotech Limited with effect from 15-11-2022 and is now rechristened as 'LTIMindtree Limited'. The Assessing Officer then passes an order under Section 143(3) with respect to Section 144C of the Act again in the name of merged Company M/s Aztecsoft Limited. The petitioner calls this in question before the Income Tax Appellate Tribunal ('the Tribunal' for short) seeking quashment of final assessment order passed under Section 143(3) r/w Section 144C of the Act.

3.2. The Tribunal quashes the order reserving liberty to the revenue to take action in accordance with law. Pursuant to the said order, a notice is issued under Section 148 r/w 150 of the Act proposing to reopen assessment of the petitioner for the assessment year 2008-2009. The petitioner objects to the same before the 1st respondent to consider the original return filed under

Section 139, as the return was in response to a notice issued under Section 148 r/w Section 150 of the Act for the assessment year 2008-2009. In return comes a second notice intimating the petitioner to file fresh return in the name of the present Company.

3.3. The petitioner again appears before the 2nd respondent, files objections, as the e-filing portal cannot be accessed due to impossibility of filing a return on the e-filing portal, as the notice was for the assessment year 2008-2009 and by the time the notice was issued, 10 years had elapsed. The petitioner, files objections/reply to the notice issued under Section 148 r/w Section 150 of the Act. A communication then comes about furnishing reasons recorded for reopening the assessment on 22-10-2019, thereby declining to accept the objections or reply to the notice so issued as aforesaid. A notice then comes about on 23-10-2019 under Section 143(2) to which the petitioner also files objections, which comes to be overruled on 04-12-2019. Therefore, the petitioner is before this Court calling in question the notices so issued on 29-03-2019 reopening the assessment for the year 2008-2009, as being contrary to law and lacking in jurisdiction.

4. Heard Sri K.K. Chythanya, learned senior counsel appearing for the petitioner and Sri Ravi Raj Y.V., learned counsel appearing for the respondents.

5. The learned senior counsel Sri K.K. Chythanya appearing for the petitioner would vehemently contend that the bar under Section 149 of the Act operates, as the maximum period which is available for reopening of an assessment is 4 years, which is extendable by 2 years on certain circumstances. In the case at hand, the notices are issued on 29-03-2019 for reopening an assessment for the assessment year 2008-2009, which is undoubtedly 10 years old. He would submit that the revenue has taken shelter under Section 150 of the Act which deals with a provision for cases where assessment is in pursuance of an order in appeal. He would submit that the order in appeal was in favour of the assessee. It never permitted the revenue to act contrary to law. The liberty that was reserved was only to act in consonance with law. He would contend that this touches upon the jurisdiction of the 1st respondent to have issued a notice, 10 years after the assessment, for reopening the said assessment.

5.1. The learned senior counsel would contend that twin objectives of Section 150 is not fulfilled in the case at hand. He would thus contend that if jurisdictional issue is accepted, no other contention need be urged or considered, as the notice would be barred by law. He would for the present restrict his submissions to the jurisdictional issue and seeks liberty in the event this Court would hold that the revenue had jurisdiction to issue the notice, to submit on other grounds that are urged in the petitions. On the jurisdictional issue itself, the learned senior counsel would seek quashment of notices and all further proceedings taken thereto.

6. On the converse, the learned counsel appearing for the revenue Sri Y.V. Ravi Raj would refute the submissions of the learned senior counsel, again taking shelter under Section 150 of the Act. He would submit that the order in appeal reserved opportunity to the revenue to initiate proceedings or reopen assessment. The notices earlier were issued to the Company way back in the year 2009 itself. But, after merger, it was nonetheless issued in the name of M/s Aztecsoft Limited, indicating that it was under the LTIMindtree Limited. Therefore, the proceedings are

annulled and liberty is given by the Tribunal. The liberty would date back and, therefore, Section 150 permits reopening of the assessment pursuant to an order of the Tribunal. It is his further submission that what is called in question are notices, the petitioners undoubtedly have alternative remedy within the department or hierarchy in the department to call the said notices in question, the writ petitions would not be maintainable. On all the aforesaid contentions, the learned counsel for the revenue seeks dismissal of the petition.

7. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

In furtherance whereof, the following issues would arise for consideration:

(i) Whether the impugned notices dated 29-03-2019 and the proceedings taken in the aftermath, suffer from want of jurisdiction?

(ii) Whether the writ petitions calling in question the notices issued would be maintainable and

entertainable before this Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, in the teeth of availability of an alternative remedy?

Issue No.1:

(i) Whether the impugned notices dated 29-03-2019 and the proceedings taken in the aftermath, suffer from want of jurisdiction?

- **FACTUAL PRELUDE TOWARDS CONSIDERATION OF THE ISSUE:**

8. The afore-narrated facts are not in dispute. They are all a matter of record. The erstwhile Company M/s Aztecsoft Limited gets merged into M/s Mindtree Limited in the year 2009. During the assessment year 2008-2009 an order is passed by the Transfer Pricing Officer under Section 92CA of the Act in the name of M/s Aztecsoft Limited, the erstwhile Company of the petitioner. This triggers proceedings at the hands of the Assessing Officer under

Section 143(3) r/w Section 144C of the Act again in the name of M/s Aztecsoft Limited. Since they were proceedings under Section 143(3) and 144C, the remedy available to an assessee is to knock at the doors of the Tribunal without passing through the appellate forum within the Department. The petitioner files the appeal before the Tribunal in IT(TP)A No.1555/Bang/2012. The Income Tax Appellate Tribunal by its order dated 08-12-2017 sets aside the action of the Transfer Pricing Officer to have passed an order under Section 92CA of the Act. The entire fulcrum of the *lis* revolves round the order that is passed by the Tribunal. Therefore, I deem it appropriate to notice those paragraphs which are germane for consideration of the issue in the *lis*. They read as follows:

> "…. …. ….
>
> 3. It was submitted by ld. AR of assessee that on pages 96 to 126 of paper book is copy of scheme of amalgamation of Aztecsoft Ltd. with Mindtree Ltd. and on pages 127 to 137 of paper book is the copy of order dated 03.06.2009 of Hon'ble Karnataka High Court in Company Petition No. 09 of 2009 sanctioning the scheme of amalgamation. He also submitted that copy of Form 21 filed by Mindtree Ltd. to Registrar of Company intimating the sanction of scheme of amalgamation on 17.06.2009 is available on pages 138 to 142 of the paper book. He also submitted that similarly, copy of Form 21 filed by Aztecsoft Ltd. to Registrar of Company intimating the sanction of scheme of amalgamation on 17.06.2009 is available on pages 143 to 147 of paper book. Thereafter, he submitted that on page no. 148 of paper book is copy of letter along with the court

order intimating the sanction of scheme of amalgamation filed before AO i.e. DCIT, Circle 11 (1) dated 23.07.2009 filed on 24.07.2009. **Thereafter, he submitted that the impugned assessment order was passed by the AO on 16.10.2012 i.e. much after the merger date and the date of intimation of merger and the said assessment order is passed in the name of the merged entity Aztecsoft Ltd. although it is stated in the assessment order that this company is now merged with Mindtree Ltd. and therefore, this is apparent that the fact of merger is very much in the knowledge of AO**. He submitted that under these facts, the assessment order is bad in law and it should be quashed and in support of his contention, he placed reliance on the judgment of Hon'ble Delhi High Court rendered in the case of Principal CIT Vs. Maruti Suzuki India Ltd. which is successor of M/s. Suzuki Powertrain India Ltd. as reported in 397 ITR 681 (Delhi). He also submitted copy of a judgment of Hon'ble Apex Court rendered in the case of CIT Vs. M/s. Spice Enfotainment Ltd. in Civil Appeal No. 285 of 2014 dated 02.11.2017 and placed reliance on it. He submitted that the SLP filed by the revenue was dismissed. He also submitted copy of a judgment of Hon'ble Karnataka High Court rendered in the case of CIT Vs. M/s. Intel Technology India Pvt. Ltd. successor in interest to M/s. Software & Silicon Systems India Pvt. Ltd. in ITA Nos. 499 & 500/2009 dated 03.03.2015 and placed reliance on it. He submitted that in this case also, it was held by Hon'ble Karnataka High Court that the assessment order passed in the merged entity name is not valid in law and same was quashed although it was held that department may proceed for making assessment in accordance with law in the name of new entity in terms of the provisions of the IT Act, 1961.

4. The ld. DR of revenue filed written submissions which are reproduced here below.

> "In this case, the assessee is challenging the validity of assessment order passed on 16.10.2012 in the name of M/s Aztecsoft Limited (now merged with M/s Mindtree Limited) by filing additional grounds of appeal.
>
> 2. It is noted that the assessee has not challenged the jurisdiction issue in any of the earlier proceedings,

neither during the assessment proceedings nor during the DRP proceedings.

3. It may kindly be noted that the name of the assessee in the first page of the assessment order for 2008-09 is mentioned as **M/s Aztecsoft Ltd (now merged with M/s Mind Tree Ltd)**. The address of the assessee mentioned in the assessment order is "**Global Village, Rvce post, Mysore road, Bangalore-560059**". This is the correct address of successor entity M/s Mind Tree Ltd and not of erstwhile entity M/s Aztechsoft Ltd. It means that the event of merger of assessee company has been duly taken into account while passing the assessment order. Further, the first paragraph of the final assessment order is quoted below.

> "Aztechsoft Limited (Aztech for short), incorporated in 1995, **now merged with Mindtree Limited** is the principal holding company of AztechDishaInc and Aztech US."

It can be seen from the above that the assessment order is indeed passed in the name of successor company wherein the Name, address have been correctly mentioned.

4. It is observed that the assessee company filed its return of income on 29.09.2008 in the name M/s Aztech Soft Ltd. for A.Y. 2008-09 with total income of Rs. 7,39,72,420 and a refund claim of Rs. 1,52,59,030. The assessee company got merged with Mindtree Limited with appointed date of 01/04/2009 as approved by the Hon'ble High Court vide order dated 09/06/2009. Thus, till 31.03.2009, Aztech Soft Ltd had separate existence and the assessment year in question is with regard to the financial affairs of the assessee company for F.Y. 2007-08. Notice u/s 143(2) of the Act was issued to the assessee company on 27/08/2009 selecting the case for scrutiny of the return filed in the name of M/s Aztech Soft Ltd. The same was duly served on the assessee. In fact, there was a response by the assessee by way of acknowledging the receipt of notice and seeking extension of time for appearance by way of filing a letter dated 22/09/2009. The letter was signed by Sri SrirangaKrish, Associate Director-Finance of Mindtree Limited. However, there was no communication by the assessee regarding the event of merger in the letter (Enclosure-1).

5. It is noted that the refund claim of the assessee was processed u/s 143(1) of the Act on 09/01/2010, which

is subsequent to the date of merger, in the name of Aztech Soft Limited. However, the assessee has not objected for the same while accepting the refund (**copy of 143(1) order-Enclosure-2**).

6. Subsequent notices u/s 142(1) have been issued in the name of M/s Aztech Soft Limited (now merged with Mindtree Limited) and addressed to registered address of Mindtree Limited (successor entity). Copy of notice u/s 142(1) dated 14.12.2011 is enclosed as one such reference (**enclosure-3**). It is also seen that all the subsequent notices and orders such as draft assessment order, DRP order, Final assessment order have been passed in the name of M/s Aztech Soft Limited (now merged with Mindtree Limited) and addressed to registered address of Mindtree Limited (successor entity). The assessee has also filed responses in the same manner. One such reply of assessee dated 16/01/2012 is enclosed (**Enclosure-4**) for ready reference. Even the power of attorney filed by the assessee before the assessing officer mentions the details as M/s Aztech Soft Limited (now merged with Mindtree Limited) (**enclosure-5**). Therefore, the assessee is not correct in stating that the assessment order passed is not valid.

7. It is also verified from records that the change in address of the assessee was informed officially only on 26/11/2012 to the DCIT, Circle 12(1), which was forwarded to the DCIT (LTU) (**enclosure-6**).

8. In view of all the facts above, the assessee cannot take a stand that the assessment order was passed on nonexistent entity. The provisions of section 170(1) of the Act are clearly applicable in this case, as the succession of business has taken place by way of merger and the assessment in respect of business carried on by the assessee till the date of merger is assessed in the hands of the assessee and addressed to the successor company. It is also pointed out that the assessment has been made after recording the fact of merger and Mindtree Ltd being the successor, all the liabilities stand transferred to it post merger.

9. The Hon'ble ITAT, Bangalore in the case of TrishulBuildtech Infrastructure (P) Ltd vs JCIT, ITA No.s 1362 & 1367/Bang/2013 dated 20.02.2015 decided the

issue in favour of revenue in similar circumstances. The relevant para is extracted as under.

> "25 It can be seen from the provisions of s.170(1) that if there is a succession in the business of assessee, the predecessor has to be assessed in respect of income of the previous year in which succession took place upto the date of succession. The admitted factual position in the present case is that the conversion of Trishul Developers the partnership firm as limited company by name TBIPL took place on 1.2.2010. Therefore, for A.Ys 2004-05, 2005-06 & 2007-08, only Trishul Developers will have to be assessed. The provisions of s.170(2) cannot be involved for the simple reason that the erstwhile firm filed the return of income and was very much available. S. 170(2) is attracted only in a case where the predecessor "cannot be found". In our opinion, the CIT(A) has rightly rejected the contentions in this regard put forth by the assessee."

10. It is submitted that the decisions of Hon'ble High Court in the case of Intel technology [2015] 57 taxmann.com 159 and Hon'ble ITAT decision in the case of M/s. GE Medical Systems (India) Pvt. Ltd., (Since merged with Wipro GE Healthcare Pvt. Ltd.) I.T. (T.P.) A. No.328/Bang/2015 are not applicable to the facts of the present case.

Because, in those cases, the assessment orders were passed in the name of nonexistent companies without considering the event of merger and even when there was intimation of such merger to the assessing officer. However, in the present case, as mentioned in earlier paragraphs, the assessment order was passed in the name of M/s Aztech Soft Limited (now merged with Mindtree Limited) duly considering the event of merger and clearly bringing the fact of merger in the assessment order.

11. In view of the facts and legal position brought out in above paragraphs, it is humbly requested to dismiss the assessee's additional grounds of appeal challenging the validity of the assessment order."

5. We have considered the rival submissions. We find that in the written submissions filed by the ld. DR of revenue as reproduced above, this is the main contention that since in the assessment order, along with the name of the merged company,

the name of the successor company is also mentioned, it cannot be said that the assessment is completed in the name of the merged company. Regarding this submission of the ld. DR of revenue, we find that in the case of Principal CIT Vs. Maruti Suzuki India Ltd. (supra) also, the assessment order was passed in the name of M/s. Suzuki Powertrain India Ltd. (amalgamated with Maruti Suzuki India Ltd.) as noted by Hon'ble Delhi High court in the cited judgment. Hence, it is seen that in that case also, facts are same and still the issue was decided in favour of the assessee by Hon'ble Delhi High Court in that case by following another judgment of Hon'ble Delhi High court rendered in the case of Spice Infotainment Ltd. Vs. CIT as reported in 247 CTR 500 (Delhi). This judgement of Hon'ble Delhi High Court rendered in the case of Spice Infotainment Ltd. Vs. CIT (supra) has already been confirmed by the Hon'ble Apex Court. Hence in the present case also, we hold by respectfully following these judgments of Hon'ble Delhi High Court **that the assessment order framed in the present case in the name of amalgamating company is bad in law and the same is quashed although we make it clear that the department may proceed for making assessment in the name of merged company i.e. Mindtree Ltd. in accordance with law in terms of provisions of the IT Act, 1961, as was held by Hon'ble Karnataka High Court in case of CIT Vs. M/s. Intel Technology India Pvt. Ltd. (supra).**

6. In view of our decision in respect of additional grounds of the assessee, the main grounds raised in the appeal memo are not required to be adjudicated upon because when the assessment order itself is quashed, no further issue remains to be decided.

7. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on the date mentioned on the caption page.

Sd/-	Sd/-
(LALIT KUMAR)	(ARUN KUMAR GARODIA)
Judicial Member	Accountant Member"

(Emphasis added)

The Tribunal, on the score that the assessment order framed in the case before it was in the name of the amalgamating Company and, therefore, bad in law, quashed the same. While so doing, the Tribunal observes **"....although we make it clear that the department may proceed for making assessment in the name of merged company i.e., Mindtree Limited** in accordance with law in terms of provisions of the IT Act, 1961" in terms of law declared by this Court. Taking cue from the afore-quoted observation of the Tribunal, springs the impugned notice on **29-03-2019**. The notice reads as follows:

> "NOTICE UNDER SECTION 148 r.w.s. 150 OF THE INCOME-TAX ACT, 1961
>
> To,
>
> The Principal Officer,
> M/s. Mindtree Limited.,
> (Previously known as M/s. Aztecsoft Ltd.,
> now merged with M/S. Mindtree Ltd.)
> Global Village, RVCE Post,
> Mysore Road,
> Bengaluru-560059.
>
> **I, propose to assess or re-assess or re-compute the income/loss in your case for A.Y.2008-09 in consequence to findings mentioned in order passed by Appellate Authority; the ITAT's Order dated 08.12.2017; in proceedings under this Act by way of appeal. And I hereby require you to deliver to me within 30 days from the service of this notice, a return in the prescribed form for the said Assessment Year**.

Sd/-
(PRIYADARSHINI L.B., IRS)
Joint Commissioner of Income-tax(OSD)
Central Circle-1(3), Bengaluru."

(Emphasis added)

The notice is issued under Section 148 r/w 150 of the Act. An order is passed on 22-10-2019 recording the reasons for reopening the assessment under Section 147 for the assessment year 2008-2009. The reasons are as follows:

"Sir/Madam/ M/s,

Subject: Furnishing of copy of reasons recorded for reopening of assessment u/s.147 of the I.T. Act, 1961 in the case of M/s. Mindtree Limited; PAN: AABCM8839K (Previously: M/s. Aztecsoft Limited; PAN: AABCA2122R) for the A.Y.2008-09 - Reg.

Reference: Your letter dated 03.10.2019.

With reference to the above-mentioned subject, as requested by you vide letter mentioned in the above reference, the reasons recorded for reopening of assessment u/s.147 of the I.T. Act, 1961 in the case of **M/s. Mindtree Limited**; PAN: AABCM8839K (Previously: M/s Aztecsoft Limited; PAN: AABCA2122R) for the **A.Y.2008-09** is provided herewith as reproduced under:

"Basis of forming reason to believe and details of escapement of income:
The assessed income in the case of the assessee for the A.Y.2008-09 was determined at Rs.49,54,23,115/- as per order u/s.143(3) r.w.s.144C dated 16.10.2012. The name of the

assessee as per the order is "**M/s. Aztec Soft Ltd. (Now merged with M/s. Mindtree Ltd.**)". The assessee had filed application for merger of M/s. Aztecsoft Ltd. with M/s. Mindtree Ltd. with effect from 01.04.2009 which was approved by the Hon'ble High Court vide order dated 09.06.2009. The assessment order framed in the assessee's case was quashed by the ITAT vide order dated 08.12.2017 holding that the order framed in the name of amalgamating company (M/s. Aztecsoft Ltd.) is bad in law. In the order, the ITAT has made it clear for the department to proceed for making assessment in the name of the merged company i.e. Mindtree Ltd. in accordance with law in terms of provisions of the I.T. Act, 1961. **The ITAT has quashed the order on the issue of framing of the orders in the name of amalgamating company and has not adjudicated on income of Rs. 49,54,23,115/- which was brought to tax in the order. Hence I have reason to believe that income to the extent of Rs. 49,54,23,115/- chargeable to tax which has not been adjudicated by the ITAT has escaped assessment as the order through which the income was brought to tax was quashed by the ITAT vide order dated 08.12.2017**."

SUNIL GOUTAM TADIMALLI
CENTRAL CIRCLE 1(3), BLR"

(Emphasis added)

Another notice was issued under Section 143(2) of the Act directing the petitioner to attend the proceedings reopened in terms of the notice so issued, on 23-10-2019. Objections were filed by the assessee to the notice so issued and those objections came to be repudiated by the rebuttal order dated 04-12-2019. It is these orders that are called in question in the subject petition.

9. Since the notice is issued under Section 148 r/w 150 of the Act, I deem it appropriate to notice certain provisions of the Act. The provisions that are to be referred now are in terms of the Finance Act, 2018 which was the one that was in subsistence at the time when the proceedings were instituted against the petitioner. The Finance Act, 2021 brings about a paradigm shift in the procedure on certain provisions. Since these proceedings were initiated during the Finance Act, 2018, what was then germane is required to be noticed.

- **RELEVANT STATUTORY FRAMEWORK:**

10. Sections 147, 148, 149 and 150 of the Act read as follows:

> **"Section 147. Income escaping assessment.— If the Assessing Officer, has reason to believe that any income chargeable to tax has escaped assessment for any assessment year, he may, subject to the provisions of Sections 148 to 153, assess or reassess such income and also any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under this section, or recompute the loss or the depreciation allowance or any other allowance, as the case may be, for the assessment year concerned (hereafter in this section and in Sections 148 to 153 referred to as the relevant assessment year):**

Provided that where an assessment under sub-section (3) of Section 143 or this section has been made for the relevant assessment year, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any income chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under Section 139 or in response to a notice issued under sub-section (1) of Section 142 or Section 148 or to disclose fully and truly all material facts necessary for his assessment, for that assessment year:

Provided further that nothing contained in the first proviso shall apply in a case where any income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment for any assessment year:

Provided also that the Assessing Officer may assess or reassess such income, other than the income involving matters which are the subject matters of any appeal, reference or revision, which is chargeable to tax and has escaped assessment.

Explanation 1.—Production before the Assessing Officer of account books or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not necessarily amount to disclosure within the meaning of the foregoing proviso.

Explanation 2.—For the purposes of this section, the following shall also be deemed to be cases where income chargeable to tax has escaped assessment, namely:—

(a) where no return of income has been furnished by the assessee although his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income tax;

(b) where a return of income has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return;

(b-a) where the assessee has failed to furnish a report in respect of any international transaction which he was so required under Section 92-E;

(c) where an assessment has been made, but—

(i) income chargeable to tax has been underassessed; or

(ii) such income has been assessed at too low a rate; or

(iii) such income has been made the subject of excessive relief under this Act; or

(iv) excessive loss or depreciation allowance or any other allowance under this Act has been computed.

(ca) where a return of income has not been furnished by the assessee or a return of income has been furnished by him and on the basis of information or document received from the prescribed income-tax authority, under sub-section (2) of Section 133-C, it is noticed by the Assessing Officer that the income of the assessee exceeds the maximum amount not chargeable to tax, or as the case may be, the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return;

(d) where a person is found to have any asset (including financial interest in any entity) located outside India.

Explanation 3.—For the purpose of assessment or reassessment under this section, the Assessing Officer may assess or reassess the income in respect of any issue, which has escaped assessment, and such issue comes to his notice subsequently in the course of the proceedings under this section, notwithstanding that the reasons for such issue have not been included in the reasons recorded under sub-section (2) of Section 148.

Explanation 4.—For the removal of doubts, it is hereby clarified that the provisions of this section, as amended, by the Finance Act, 2012, shall also be applicable for any assessment year beginning on or before the 1st day of April, 2012.

148. Issue of notice where income has escaped assessment.

(1) Before making the assessment, reassessment or recomputation under section 147, the Assessing Officer shall serve on the assessee a notice requiring him to furnish within such period, as may be specified in the notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139 :

Provided that in a case—

(a) where a return has been furnished during the period commencing on the 1st day of October, 1991 and ending on the 30th day of September, 2005 in response to a notice served under this section, and

(b) subsequently a notice has been served under sub-section (2) of section 143after the expiry of twelve months specified in the proviso to sub-section (2) of section 143, as it stood immediately before the amendment of said sub-section by the Finance Act, 2002 (20 of 2002) but before the expiry of the time limit for making the assessment, re-assessment or recomputation as specified in sub-section (2) of section 153, every such notice referred to in this clause shall be deemed to be a valid notice:

Provided further that in a case—

(a) where a return has been furnished during the period commencing on the 1st day of October, 1991 and ending on the 30th day of September, 2005, in response to a notice served under this section, and

(b) subsequently a notice has been served under clause (ii) of sub-section (2) of section 143 after the expiry of twelve months specified in the proviso to clause (ii) of sub-section (2) of section 143, but before the expiry of the time limit for making the assessment, reassessment or recomputation as specified in

sub-section (2) of section 153, every such notice referred to in this clause shall be deemed to be a valid notice.

Explanation.—For the removal of doubts, it is hereby declared that nothing contained in the first proviso or the second proviso shall apply to any return which has been furnished on or after the 1st day of October, 2005 in response to a notice served under this section.

(2) The Assessing Officer shall, before issuing any notice under this section, record his reasons for doing so.

Section 149. Time limit for notice.

(1) No notice under section 148 shall be issued for the relevant assessment year,—

(a) if four years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b) or clause (c);

(b) if four years, but not more than six years, have elapsed from the end of the relevant assessment year unless the income chargeable to tax which has escaped assessment amounts to or is likely to amount to one lakh rupees or more for that year;

(c) if four years, but not more than sixteen years, have elapsed from the end of the relevant assessment year unless the income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment.

Explanation.—In determining income chargeable to tax which has escaped assessment for the purposes of this sub-section, the provisions of Explanation 2 of section 147shall apply as they apply for the purposes of that section.

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

(3) If the person on whom a notice under section 148 is to be served is a person treated as the agent of a non-resident under section 163 and the assessment, reassessment or recomputation to be made in pursuance of the notice is to be made on him as the agent of such non-resident, the notice shall not be issued after the expiry of a period of six years from the end of the relevant assessment year.

Explanation.—For the removal of doubts, it is hereby clarified that the provisions of sub-sections (1) and (3), as amended by the Finance Act, 2012, shall also be applicable for any assessment year beginning on or before the 1st day of April, 2012.

150. Provision for cases where assessment is in pursuance of an order on appeal, etc.—(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 any authority in any proceeding under this Act by way of appeal, reference or revision or by a Court in any proceeding under any other law.

(2) The provisions of sub-section (1) shall not apply in any case where any such assessment, reassessment or recomputation as is referred to in that sub-section relates to an assessment year in respect of which an assessment, reassessment or recomputation could not have been made at the time the order which was the subject-matter of the appeal, reference or revision, as the case may be, was made by reason of any other provision limiting the time within which any action for assessment, reassessment or recomputation may be taken."

(Emphasis supplied)

Section 147 permits reopening of an assessment, if the Assessing Officer has reason to believe that any income chargeable to tax has

escaped assessment for any assessment year. He may subject to provisions of Sections 148 to 153 reopen such assessments. Section 148 mandates that before making the assessment, reassessment or recomputation under Section 147, the Assessing Officer should serve a notice on the assessee and follow the procedure thereafter. Section 149 deals with time limit for such notice. Section 149 mandates that no notice under Section 148 shall be issued for the relevant assessment year, if 4 years have elapsed from the end of relevant assessment years, unless the case falls under clause (b) or clause (c) of Section 149(1). Clause (b) permits, no notice shall be issued if, 4 years but not more than 6 years have elapsed from the end of relevant assessment year, unless the income chargeable to tax that has escaped assessment amounts to or likely to amount to ₹1/- lakh or more in a year. The petitioner would fall under this category. Clause (c) amplifies the time limit for escaped assessment to 16 years only to those assets located outside India. The assets of the petitioner are not located outside India. Therefore, it would fall within the rigour of Section 149(1)(b) of the Act, which is maximum 6 years.

- **THE JURISDICTION:**

11. In the case at hand, the reopening of assessment is for the assessment year 2008-2009. The notice is issued for the year 2019. 10 years have elapsed. Section 149(1)(a) or (b) is a clear bar. Though the provision begins with a non obstante clause, it is hedged with conditions. Section 150 enables the revenue to reopen an assessment pursuant to an order in appeal, but on twin conditions. The "twin conditions" are to give effect to any finding or direction. The statutory power can be deviated only on the aforesaid twin conditions. **The revenue would force the proceedings open by brandishing Section 150, yet the law is clear. Section 150 is not a passport to wander beyond limitation at will. It is a narrow and guarded doorway opened only by a finding or a direction of an appellate or revisional authority that necessitates such reopening. A direction cannot be termed as a casual suggestion, it is a mandate, a command that brooks no discretion. Likewise, a finding is no passing observation, it is the very conclusion, without which an appellate decision cannot stand. In the case at hand, there is neither. The Tribunal's words – 'may**

proceed in accordance with law', are but an echo of the statute itself, not an enlargement of power. Therefore, Section 149 would undoubtedly kick in, unless the twin conditions are satisfied. The satisfaction of twin conditions and their interpretation need not detain this Court for long or delve deep into the matter.

11.1. The Apex Court in the case of **RAJINDER NATH v. COMMISSIONER OF INCOME-TAX[1], DELHI**, interprets Section 153 which is Section 150 under the Finance Act, 2018. The Apex Court holds as follows:

"…. …. …..

> **10.** The case has been dealt with throughout on the basis that if Section 153(3)(*ii*) of the Act applies, and the bar of limitation thereby removed, it is immaterial that the assessments have been made under Section 147(*a*) of the Act. The question, therefore, is whether Section 153(3)(*ii*) can be invoked. **It is not contended on behalf of the assessees that they are not covered by the expression "any person" in Section 153(3)(*ii*) of the Act. The only contention is that there is no "finding" or "direction" within the meaning of Section 153(3)(*ii*) of the Act in the order of the Appellate Assistant Commissioner in consequence of which or to give effect to which the impugned assessments have been made**.
>
> **11. The expression "finding" and "direction" are limited in meaning. A finding given in an appeal, revision or reference arising out of an assessment must be a**

[1] (1979) 120 ITR 14 (SC)

finding necessary for the disposal of the particular case, that is to say, in respect of the particular assessee and in relation to the particular assessment year. To be a necessary finding, it must be directly involved in the disposal of the case. It is possible in certain cases that in order to render a finding in respect of A, a finding in respect of B may be called for. For instance, where the facts show that the income can belong either to A or B and to no one else, a finding that it belongs to B or does not belong to B would be determinative of the issue whether it can be taxed as A's income. A finding respecting B is intimately involved as a step in the process of reaching the ultimate finding respecting A. If, however, the finding as to A's liability can be directly arrived at without necessitating a finding in respect of B, then a finding made in respect of B is an incidental finding only. It is not a finding necessary for the disposal of the case pertaining to A. The same principles seem to apply when the question is whether the income under enquiry is taxable in the assessment year under consideration or any other assessment year. As regards the expression "direction" in Section 153(3)(*ii*) of the Act, it is now well settled that it must be an express direction necessary for the disposal of the case before the authority or court. It must also be a direction which the authority or court is empowered to give while deciding the case before it. The expressions "finding" and "direction" in Section 153(3)(*ii*) of the Act must be accordingly confined. Section 153(3)(*ii*) is not a provision enlarging the jurisdiction of the authority or court. It is a provision which merely raises the bar of limitation for making an assessment order under Section 143 or Section 144 or Section 147. *ITO* v. *MurlidharBhagwan Das* [AIR 1965 SC 342: (1964) 6 SCR 411: (1964) 52 ITR 335] and *N. Kt. SivalingamChettiar* v. *CIT* [(1967) 66 ITR 586 (SC)]. The question formulated by the Tribunal raises the point whether the Appellate Assistant Commissioner could convert the provisions of Section 147(1) into those of Section 153(3)(*ii*) of the Act. In view of Section 153(3)(*ii*) dealing with limitation merely, it is not easy to appreciate the relevance or validity of the point.

…. …. ….

13. It is also not possible to say that the order of the Appellate Assistant Commissioner contains a direction that the excess should be assessed in the hands

> **of the co-owners**. What is a "direction" for the purposes of Section 153(3)(*ii*) of the Act has already been discussed. In any event, whatever else it may amount to, on its very terms the observation that the Income Tax Officer "**is free to take action" to assess the excess in the hands of the co-owners cannot be described as a "direction"**. A direction by a statutory authority is in the nature of an order requiring positive compliance. **When it is left to the option and discretion of the Income Tax Officer whether or not to take action it cannot, in our opinion, be described as a direction**."
>
> (Emphasis supplied)

The Apex Court holds that if the Tribunal or any Authority would direct reopening of an assessment, it becomes a direction by a statutory authority and it is in the nature of an order requiring positive compliance. But, when it is left to the option and discretion of the Income Tax Officer whether or not to take action, it cannot be described as a direction. The order of the Tribunal is afore-quoted. It nowhere directs reopening of the assessment. It only reserves liberty to act in accordance with law. **To put it plain, on the bedrock of the principle laid down by the Apex Court, the words 'may proceed in accordance with law' cannot be transmuted into a licence to breach the barricade of limitation**.

11.2. The next condition is finding. The Apex Court holds the expression 'finding' is limited in its meaning. A finding given in an appeal, revision or reference arising out of an assessment must be a finding necessary for the disposal of a particular case. The finding, in the case at hand, was in favour of the assessee and not in favour of the revenue. The finding, therefore, is limited to the reasons rendered to quash the proceedings. That, in the considered view of the Court, cannot become a finding for reopening an assessment, in the teeth of bar under Section 149 of the Act. Section 149 *supra* clearly bars, if four years have elapsed from the end of relevant assessment year, or 6 years in terms of clause (b), which is the only clause that would become applicable to the case of the petitioner, which restricts the period to 6 years. The order of the Tribunal cannot be interpreted to mean that liberty was reserved to act contrary to the statute. Liberty was reserved to act in accordance with the Act. Therefore, the liberty can be exercised within the four corners of the statute. The statute empowers any reopening of assessment to a stretchable limit of 6 years, 4 years being the primary limit, which is stretchable to 6 years under certain circumstances.

11.3. Jurisprudence is replete by this Court or other High Courts, following the judgment of **RAJINDER NATH** *supra*, which I deem it appropriate to notice. A Division Bench of this Court in the case of **PRINCIPAL COMMISSIONER OF INCOME TAX-7 v. M/S TALLY INDIA PRIVATE LIMITED**[2], following **RAJINDER NATH** *supra* holds as follows:

> "…. …. ….
>
> 8. The Supreme Court in **'RAJINDER NATH VS. COMMISSIONER OF INCOME-TAX', (1979) 2 TAXMAN 204 (SC)** and **'INCOME-TAX OFFICER VS. MURLIDHAR BHAGWAN DAS', (1964) 52 ITR 335 (SC)**, **supra has held that a finding given in an appeal, revision or reference arising out of an assessment must be a finding necessary for disposal of a particular case. Similarly, a direction must be an expressed direction necessary for disposal of the case before authority of court and must also be a direction which the authority of court is empowered to give while deciding a case before it. Thus, it is evident that the order dated 07.03.2012 passed by learned Single Judge of this court neither contains any finding nor any direction**.
>
> 9. The proceedings were stayed for a period from 08.12.2011 to 07.03.2012 i.e., for a period of 103 days and if period of 103 days is added, and a period of 60 days as prescribed in proviso to Section 153(4) is added, the draft order ought to have been passed by the Assessing Officer upto 06.05.2012, whereas, in the instant case, the draft order has been passed on 05.07.2012 and therefore, the draft order is barred by limitation and no fault can be found with the finding of the tribunal.

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[2] ITA 307 of 2018 decided on 06-04-2021

> In view of preceding analysis, the substantial questions of law are answered against the revenue and in favour of the assessee. In the result, we do not find any merit in the appeal, the same fails and is hereby dismissed."
>
> (Emphasis supplied)

11.4. A Division Bench of the High Court of Bombay in the case of **LOTUS INVESTMENTS LIMITED v. G.Y.WAGH, ASSISTANT COMMISSIONER OF INCOME-TAX**[3], again following **RAJINDER NATH** *supra* has held as follows:

> "…. …. ….
>
> **31.** Under section 150 of the Act, irrespective of the limitation prescribed under section 149, reassessment proceedings can be initiated at any time if the initiation of reassessment is in consequence of or to give effect to any finding or direction contained in any order passed by any authority under the Act by way of appeal, reference or revision or by a court in any proceedings under any other law. While construing similar provisions contained in the 1922 Act, the apex court in the case of ITO v. Murlidhar Bhagwan Das [1964] 52 ITR 335 held that the word "finding" can be only that which is necessary for the disposal of an appeal in respect of an assessment of a particular year. The apex court further held that the appellate authority may incidentally find that the income belongs to another year, but that is not a finding necessary for the disposal of an appeal in respect of the assessment year in question. Similarly, the expression "direction" has been construed by the apex court to mean a direction which the appellate or revisional authority as the case may be, is empowered to give under the sections mentioned therein. In the present case, the Commissioner of Income-tax (Appeals) has neither given a finding to the effect that the

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[3] **(2007) 288 ITR 459 (Bombay)**

income chargeable to tax has escaped assessment nor given any direction to the Income-tax Officer to initiate reassessment proceedings for the block period by issuing notices under section 148 of the Act. The clear finding recorded by the Commissioner of Income-tax (Appeals) is that there is no evidence or any material found during the search proceedings on the basis of which undisclosed income can be computed under section 158BC of the Act. The Commissioner of Income-tax (Appeals) has recorded a finding (see page 141 of the petition) that even the statements recorded in the form of preliminary or final statements do not show any admission by Mr. Stany Saldanha (director of the assessee) which can be used as a material relatable to any evidence found on September 17, 1998, as none was found on that date. It is further held (see page 142 of the petition) that there is nothing in the statement expressing any doubt for non-genuineness of the loan transaction as also disallowance of depreciation on fixed assets. In these petitions, we are not called upon to decide the correctness of the above findings recorded by the Commissioner of Income-tax (Appeals). The above observations of the Commissioner of Income-tax (Appeals) may be erroneous and may be set aside by the Income-tax Appellate Tribunal while disposing of the appeal filed by the Revenue. **That is a different matter. But as the findings recorded by the Commissioner of Income-tax (Appeals) stand today, there is no evidence or material on record to hold that income has escaped assessment and there is no direction to the Income-tax Officer to initiate reassessment proceedings. Therefore, the contention of the Revenue that the Commissioner of Income-tax (Appeals) has given a finding and a direction to reopen the assessments cannot be accepted**.

32. The fact that the Commissioner of Income-tax (Appeals) in his order dated December 24, 2004, has observed that the Assessing Officer is free to look into and consider the disallowances under section 148 of the Act in the relevant assessment years in terms of section 150(1) read with Explanation 2 to section 153 cannot be construed to be a direction to reopen the assessments so as to issue reassessment notices even after the expiry of six years from the end of the relevant assessment years, as contemplated under section 150 of the Act. The above observations made by the Commissioner of Income-tax (Appeals) can at best be said to be a suggestion

made to the Assessing Officer to consider as to whether such disallowances could be made by initiating reassessment proceedings. If the findings given by the Commissioner of Income-tax (Appeals) were that there is evidence or material on record to suggest that income has escaped assessment but the same cannot be brought to tax in the block assessment and accordingly if any directions were given for reopening of the assessments then it would be a totally different matter. However, in the present case, the Commissioner of Income-tax (Appeals) has given a clear finding that there is no evidence or material on record to sustain the additions and, hence, the Commissioner of Income-tax (Appeals) could not have given directions to the Income-tax Officer to initiate reassessment proceedings. Therefore, the contention of the Revenue that the Commissioner of Income-tax (Appeals) has directed the Assessing Officer to initiate reassessment proceedings cannot be accepted.

33. As held by the apex court in the case of Rajinder Nath [1979] 120 ITR 14, the observations of the Commissioner of Income-tax (Appeals) that the Income-tax Officer is free to look into and consider the disallowances, would simply mean, giving an option and discretion to the Income-tax Officer to take or not to take action as he deems fit and such an observation cannot be said to be a "direction" given by the Commissioner of Income-tax (Appeals) as contemplated under section 150 of the Act.

34. The decisions of this court in the case of CIT v. Vikram A. Doshi [2002] 256 ITR 129 and CIT v. Ghodawat Pan Masala Products P. Ltd. [2001] 250ITR 570 were relied upon by counsel for the Revenue in support of his contention that the disallowances in question were liable to be made in regular assessment and not in the block assessment. In both these cases neither the scope of reassessment proceedings nor the powers of the Commissioner of Income-tax (Appeals) to direct the Income-tax Officer to initiate reassessment proceedings was an issue. In any event, once it is held that the Commissioner of Income-tax (Appeals) has not given any finding or direction for reopening the assessments, the extended period of limitation contained in section 150 of the Act is not available to the

Revenue. Therefore, these two decisions do not support the case of the Revenue. As stated earlier, the findings recorded by the Commissioner of Income-tax (Appeals) may be erroneous, but till it is reversed, it is not open to the Revenue to contend that the Commissioner of Income-tax (Appeals) has given a finding that the income has escaped assessment and has directed initiation of reassessment proceedings. Reliance placed by the Revenue on the decision of the Allahabad High Court in the case of Ashwani Dhingra [2005] 276 ITR 98 is also misplaced because in that case, the High Court had granted interest on the compensation awarded under the Land Acquisition Act. Since the interest on compensation was in the nature of income it was held that the reopening of the assessment was valid. In the present case, the facts are altogether different. In the present case, the Commissioner of Income-tax (Appeals) has held that there is no evidence or material on record to make additions and consequently there is no question of the Commissioner of Income-tax (Appeals) directing initiation of reassessment proceedings.

35. Apart from the above, section 150(1) of the Act provides that the power to issue notice under section 148 of the Act in consequence of or giving effect to any finding or direction of the appellate/revisional authority or the court is subject to the provision contained in section 150(2) of the Act. Section 150(2) provides that directions under section 150(1) of the Act cannot be given by the appellate/revisional authority or the court if on the date on which the order impugned in the appeal was passed, the reassessment proceedings had become time-barred. In other words, as per section 150(2) of the Act, the Commissioner of Income-tax (Appeals) could give directions for reassessment only in respect of those assessment years in respect of which reassessment proceedings could be initiated on the date of passing of the block assessment order on September 29, 2000. In the present case, on the date of passing of the block assessment order on September 29, 2000, the assessments for most of the assessment years had become timebarred and, therefore, even if the Commissioner of Income-tax (Appeals) were to give any directions, the same would be hit by section 150(2) of the Act. In any event, in the present case, the

Commissioner of Income-tax (Appeals) has not given any finding or direction for reopening of the assessments and, therefore, the provisions of section 150 of the Act are not applicable, consequently, the impugned notices which are time-barred under section 149 of the Act are without jurisdiction and are liable to be quashed and set aside. Once it is held that the Commissioner of Income- tax (Appeals) has not given any finding or direction for reopening the assessment, the benefit of Explanation 2 to section 153 of the Act would not be available to the Revenue.

36. It was contended on behalf of the Revenue that if the reassessment proceedings are allowed to be continued during the pendency of the appeal filed by the Revenue before the Income-tax Appellate Tribunal against the order of the Commissioner of Income-tax (Appeals), no prejudice would be caused to the assessee. This argument is wholly misconceived. The validity of the impugned notices cannot be decided on the basis of the prejudice that may or may not be caused to the assessee. Whether any prejudice is caused or not, if the notices are without jurisdiction, they are liable to be quashed and set aside.

37. As stated earlier, the validity of the order passed by the Commissioner of Income-tax (Appeals) is not questioned in these petitions and, therefore, we are not expressing any opinion on the merits regarding the allowability or disallowability of bank interest and depreciation. **In these writ petitions, we are only concerned with the issue as to whether the impugned notices have been issued pursuant to the directions of the Commissioner of Income-tax (Appeals). Once we hold that no directions have been given by the Commissioner of Income-tax (Appeals) for reopening the assessments, the benefit of section 150 is not available to the Revenue and the impugned notices which are time-barred under section 149 of the Act are liable to be quashed. Though the notice issued under section 148 of the Act for the assessment year 1999-2000 falls within six years from the end of the assessment, in view of the fact that the Assessing Officer has not obtained approval of the Chief Commissioner of Income-tax/Commissioner of Income-tax before issuing the notices as contemplated**

under section 151 of the Act, notice for the assessment year 1999-2000 is also time-barred.

38. For all the aforesaid reasons, the reopening of the assessments for the assessment year 1989-90 to the assessment year 1999-2000 are quashed and set aside."

(Emphasis supplied)

11.5. A Division Bench of the High Court of Delhi in the case of **ORCHID INFRASTRUCTURE DEVELOPERS (P) LIMITED v. PRINCIPAL COMMISSIONER OF INCOME-TAX**[4], has held as follows:

"…. …. ….

30. The issue regarding the impermissibility of two assessment orders for a particular assessment year was also highlighted in *AbhisarBuildwell (P) Ltd. case* [*CIT* v. *AbhisarBuildwell (P) Ltd.*, (2024) 2 SCC 433 : (2023) 454 ITR 212] , wherein, in para 34, it was held as under (454 ITR p. 246): (SCC p. 462, para 34)

> "*34.If the submission on behalf of the Revenue that in case of search even where no incriminating material is found during the course of search, even in case of unabated/completed assessment, the Assessing Officer can assess or reassess the income/total income taking into consideration the other material is accepted, in that case, there will be two assessment orders, which shall not be permissible under the law*. At the cost of repetition, it is observed that the assessment under Section 153-A of the Act is linked with the search and requisition under Sections 132/132-A of the Act. The object of Section 153-A is to bring under tax the undisclosed income which is found during the course of search or pursuant to search or requisition. Therefore, only in a case

[4] (2024) 465 ITR 591 (Delhi)

> where the undisclosed income is found on the basis of incriminating material, the Assessing Officer would assume the jurisdiction to assess or reassess the total income for the entire six years block assessment period even in case of completed/unabated assessment. As per the second proviso to Section 153-A, only pending assessment/reassessment shall stand abated and the Assessing Officer would assume the jurisdiction with respect to such abated assessments. It does not provide that all completed/unabated assessments shall abate. If the submission on behalf of the Revenue is accepted, in that case, the second proviso to Section 153-A and sub-section (2) of Section 153-A would be redundant and/or rewriting the said provisions, which is not permissible under the law."
>
> (emphasis supplied)

31. Therefore, if the respondent was apprehensive of the fact that the petitioner had suppressed its income before the Income Tax Settlement Commission, it ought to have resorted to the remedy contained in Chapter XIX-A of the Act itself on the grounds of fraud or misrepresentation. The concept of fraud has been jurisprudentially recognised as a concept of wide import, and thus, availability of a challenge on the ground of fraud could have provided an effective remedy to the respondent, if so justified. Evidently, the respondent has failed to seek recourse to such a remedy and rather, preferred an appeal before this Court on altogether different aspects as compared to the ones raised in the present petition. In any case, the same was also dismissed vide the order dated 5-9-2017.

32. Further, the respondent has strenuously relied upon sub-section (1) of Section 150 of the Act in juxtaposition with the decision in *AbhisarBuildwell (P) Ltd. case* [*CIT* v. *AbhisarBuildwell (P) Ltd.*, (2024) 2 SCC 433 : (2023) 454 ITR 212] , to contend that the same confers an authority on the respondent to issue the impugned notices and reopen the completed assessments under Sections 147 and 148 of the Act. At this juncture, it is significant to extract Section 150 of the Act, which reads as under:

> "**150.*Provision for cases where assessment is in pursuance of an order on appeal, etc.***—(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 any authority in any proceeding under this Act by way of appeal, reference or revision or by a court in any proceeding under any other law.
>
> (2) The provisions of sub-section (1) shall not apply in any case where any such assessment, reassessment or recomputation as is referred to in that sub-section relates to an assessment year in respect of which an assessment, reassessment or recomputation could not have been made at the time the order which was the subject-matter of the appeal, reference or revision, as the case may be, was made by reason of any other provision limiting the time within which any action for assessment, reassessment or recomputation may be taken."

33. The aforesaid Section 150(1) of the Act, which begins with a non obstante clause to outweigh the mandate of Section 149 of the Act, stipulates that a notice under Section 148 of the Act may be issued at any time to give effect to any finding or direction contained in an order passed byany authority in any proceeding under this Act by way of appeal, reference or revision or by a court in any proceeding under any other law. Reliance has been placed by the respondent on para 14(*iv*) in *AbhisarBuildwell (P) Ltd. case* [*CIT* v. *AbhisarBuildwell (P) Ltd.*, (2024) 2 SCC 433 : (2023) 454 ITR 212] to consider it as a direction or finding of the court to issue the impugned notices. The relevant extract of the said decision is culled out as under (454 ITR p. 247): (SCC p. 463, para 36.4)

> "*36.4.* In case no incriminating material is unearthed during the search, the Assessing Officer cannot assess or reassess taking into consideration the other material in respect of completed assessments/unabated assessments. Meaning thereby, in respect of completed/unabated assessments, no addition can be made by the Assessing Officer in the absence of any incriminating material found during the course of search under Sections 132 or requisition under Section 132-A of the Act, 1961. *However, the completed/unabated assessments can be reopened by the Assessing Officer in exercise of powers under Sections*

147/148 of the Act, subject to fulfilment of the conditions as envisaged/mentioned under Section 147/148 of the Act and those powers are saved."

(emphasis supplied)"

(Emphasis supplied)

11.6. In its recent judgment, the High Court of Delhi, in the case of **SANJAY SINGHAL v. ASSISTANT COMMISSIONER OF INCOME-TAX**[5], has considered the entire spectrum and has held as follows:

"…. …. ….

12. We are unable to accept that the decision of this court in ITA No. 807/2023 [order dated 22.12.2023 dismissing the Revenue's appeal] can be read as findings and directions within the meaning of Section 150 of the Act, to permit the Revenue to issue notices under Section 148 of the Act, beyond the period as stipulated under Section 149(1) of the Act. The said issue is also covered by the decision of this court in *ARN Infrastructures India Ltd.* v. *Assistant Commissioner of Income Tax Cental Circle-28 Delhi* : Neutral Citation No. : 2024 : DHC : 7423-DB. The relevant observations of the said decision are set out below:

"38. It is pertinent to note that a reference to Sections 147 and 148 of the Act in *AbhisarBuildwell* firstly appears in paragraph 33 of the report and where the Supreme Court observed that in cases where a search does not result in any incriminating material being found, the only remedy that would be available to the Revenue would be to resort to reassessment.

39. However, the Supreme Court caveated that observation by observing that the initiation of reassessment would be "…..*subject to fulfilment of the conditions*

[5] (2025) 303 Taxman 35 (Delhi)

mentioned in Sections 147/148, as in such a situation, the Revenue cannot be left with no remedy". This sentiment came to be reiterated with the Supreme Court observing that the power of the Revenue to initiate reassessment must be saved failing which it would be left with no remedy. It was thereafter observed in paragraph 36.4 of the report that insofar as completed or unabated assessments were concerned, they could be reopened by the AO by invocation of Sections 147/148 of the Act, subject to the fulfillment of the conditions "……*as envisaged/mentioned under Sections 147/148 of the Act and those powers are saved*".

40. It thus becomes apparent that the liberty which the Supreme Court accorded and the limited right inhering in the Revenue to initiate reassessment was subject to that power being otherwise compliant with the Chapter pertaining to reassessment as contained in the Act. The observations of the Supreme Court cannot possibly be read or construed as a *carte blanche* enabling the respondents to overcome and override the restrictions that otherwise appear in Section 149 of the Act. The observations of the Supreme Court in *AbhisarBuildwell* were thus intended to merely convey that the annulment of the search assessments would not deprive or denude the Revenue of its power to reassess and which independently existed. However, the Supreme Court being mindful of the statutory prescriptions, which otherwise imbue the commencement of reassessment, qualified that observation by providing that such an action would have to be in accordance with law. This note of caution appears at more than one place in that judgment and is apparent from the Supreme Court observing that the power to reassess would be subject to the fulfilment of the conditions mentioned in Sections 147 and 148 of the Act.

41. We also bear in mind the order passed on the Miscellaneous Application which was moved by the Revenue before the Supreme Court and more particularly to the prayers that were made therein. The Revenue had specifically alluded to Section 150 of the Act and sought appropriate clarifications enabling it to proceed afresh. It had also sought the liberty to commence proceedings for reassessment within 60 days of the disposal of that application. The said application, however, came to be dismissed with it being left open to the respondents to move a formal application for review, if so chosen and

advised. It appears, however, that no such review was ultimately moved.

42. Regard must also be had to the judgment rendered in the batch of *U.K. Paints*, and where while according liberty to the respondents to initiate reassessment, the Supreme Court pertinently observed that the same would be subject to the proposed action being in accordance with law and if "permissible in law". Thus, neither *AbhisarBuildwell* nor *U.K. Paints* are liable to be read as enabling the respondents to overcome the statutory bar of limitation which may have come into play. Those judgments cannot possibly be construed as freeing the respondents from the obligation of independently establishing that the proposed action for reassessment would otherwise be in accordance with law.

43. We had in *Sumitomo Corporation* also taken note of the aspect of limitation and where the respondents had sought to contend that a finding or direction would enable them to overcome the time frames erected by virtue of Section 144C of the Act. An argument, again founded on Section 150, came to be negated with the Court observing that a direction would have to necessarily be in accordance with the scheme of the Act and the statutory prescriptions comprised therein. It was further observed that it would be wholly incorrect for courts to extend a period of limitation that otherwise stands prescribed in the Act.

44. As was explained in *Sumitomo Corporation*, the expression "finding" as occurring in Section 150 of the Act is liable to be understood to be a conclusion or a decision of an authority or tribunal rendered in the context of a particular case and essential for determining the grant of relief. A "direction", we had held, would constitute one which an authority was empowered to issue under the Act. Tested on those precepts, we find ourselves unable to countenance the observations appearing in *Abhisar Buildwell* as amounting to a finding since the principal question in those appeals was with respect to the validity of the search assessments which were undertaken. The Supreme Court had, in order to balance equities, additionally observed that it would be open for the Revenue to commence reassessment, if otherwise permissible in law. That observation cannot be viewed as amounting to a direction which would enable the respondents to overcome the prescription of limitation which otherwise applied."

> **13. In view of the above, the contention that the time period, within which a notice can be issued under Section 148 of the Act as stipulated under Section 149(1) of the Act, is not applicable in the facts of the case, is unmerited.**
>
> **14. The petition is accordingly allowed and the impugned order dated 24.09.2024 under Section 148A(3) of the Act and the impugned notice issued under Section 148 of the Act for A.Y. 2015-2016 are set aside**."
>
> (Emphasis supplied)

In the light of the law being unequivocal, as noted hereinabove by the Apex Court, this Court and Bombay and Delhi High Courts, what would unmistakably emerge is, that the notice so issued suffers from want of statutory mandate, as the statutory bar under Section 149 of the Act, is all pervasive in the subject proceedings. Therefore, the impugned action commencing from the issuance of show cause notice, **does suffer from want of jurisdiction *qua* limitation, as limitation undoubtedly is a question of jurisdiction and answer to the question of jurisdiction is always either "yes" or a "no", it can never be a "may be".** ***The issue is thus answered in favour of the assessee.***

Issue No.2:

(ii) Whether the writ petitions calling in question the notices issued would be maintainable and entertainable before this Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, in the teeth of availability of an alternative remedy?

12. **The revenue strenuously contends that the petition is neither maintainable nor entertainable, in the light of the alternative statutory remedy within the department, to challenge the notice so issued and proceedings taken in furtherance of the notice. The issue is with regard to proceedings springing under Section 148 *supra*, which is a bar under Section 149 of the Act. It is therefore, an issue, concerning jurisdiction, which would go to the root of the matter. Jurisdiction is the very life blood of a notice under Section 148 and when jurisdiction is absent, the writ Court will not stand aside, by showing the doors of exit to a litigant who projects lack of jurisdiction as a ground of**

challenge, in the teeth of subsistence of an alternative remedy. In the light of answer to issue No.1, the impugned proceedings is a proceeding wanting in jurisdiction *qua* limitation. The limitation is under Section 149, if the notice is issued beyond the time limit prescribed under Section 149 as answered in issue No.1, it becomes a notice without jurisdiction and if it is a notice without jurisdiction, a writ petition challenging such action, which is wanting in jurisdiction, would become not only maintainable, but entertainable as well. The issue is no longer *res integra*.

12.1. Jurisprudence is replete with the Apex Court considering the issue of maintainability and entertainability of a petition which is placed before the constitutional Court projecting action of the State suffering from want of jurisdiction. The Apex Court, in the case of **WHIRLPOOL CORPORATION v. REGISTRAR OF TRADE MARKS**[6], holds as follows:

"…. …. ….

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[6](1998) 8 SCC 1

> **14.** The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution **but also for "any other purpose"**.
>
> **15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field**."
>
> (Emphasis supplied)

12.2. The Apex Court, in a judgment rendered in the year 2023, elucidates the twin concepts of maintainability and entertainability. The Apex Court in the case of **GODREJ SARA**

LEE LTD., v. EXCISE AND TAXATION OFFICER-CUM-ASSESSING AUTHORITY[7], has held as follows:

> "…. …. ….
>
> **4. Before answering the questions, we feel the urge to say a few words on the exercise of writ powers conferred by article 226 of the Constitution having come across certain orders passed by the High Courts holding writ petitions as "not maintainable" merely because the alternative remedy provided by the relevant statutes has not been pursued by the parties desirous of invocation of the writ jurisdiction. The power to issue prerogative writs under article 226 is plenary in nature. Any limitation on the exercise of such power must be traceable in the Constitution itself. Profitable reference in this regard may be made to article 329 and ordainments of other similarly worded articles in the Constitution. Article 226 does not, in terms, impose any limitation or restraint on the exercise of power to issue writs. While it is true that exercise of writ powers despite availability of a remedy under the very statute which has been invoked and has given rise to the action impugned in the writ petition ought not to be made in a routine manner, yet, the mere fact that the petitioner before the High Court, in a given case, has not pursued the alternative remedy available to him/it cannot mechanically be construed as a ground for its dismissal. It is axiomatic that the High Courts (bearing in mind the facts of each particular case) have a discretion whether to entertain a writ petition or not. One of the self-imposed restrictions on the exercise of power under article 226 that has evolved through judicial precedents is that the High Courts should normally not entertain a writ petition, where an effective and efficacious alternative remedy is available. At the same time, it must be remembered that mere availability of an alternative remedy of appeal or revision, which the party invoking the jurisdiction of the High Court under article 226 has not pursued, would not oust the jurisdiction of the High Court and render a writ petition "not**

[7] **(2023) 109 GSTR 402 : 2023 SCC OnLine SC 95**

maintainable". In a long line of decisions, this court has made it clear that availability of an alternative remedy does not operate as an absolute bar to the "maintainability" of a writ petition and that the rule, which requires a party to pursue the alternative remedy provided by a statute, is a rule of policy, convenience and discretion rather than a rule of law. Though elementary, it needs to be restated that "entertainability" and "maintainability" of a writ petition are distinct concepts. The fine but real distinction between the two ought not to be lost sight of. The objection as to "maintainability" goes to the root of the matter and if such objection were found to be of substance, the courts would be rendered incapable of even receiving the lis for adjudication. On the other hand, the question of "entertainability" is entirely within the realm of discretion of the High Courts, writ remedy being discretionary. A writ petition despite being maintainable may not be entertained by a High Court for very many reasons or relief could even be refused to the petitioner, despite setting up a sound legal point, if grant of the claimed relief would not further public interest. Hence, dismissal of a writ petition by a High Court on the ground that the petitioner has not availed the alternative remedy without, however, examining whether an exceptional case has been made out for such entertainment would not be proper.

5. A little after the dawn of the Constitution, a Constitution Bench of this Court in its decision reported in [1958] SCR 595 (State of Uttar Pradesh v. Mohammad Nooh) had the occasion to observe as follows :

> "10. In the next place it must be borne in mind that there is no rule, with regard to certiorari as there is with mandamus, that it will lie only where there is no other equally effective remedy. It is well established that, provided the requisite grounds exist, certiorari will lie although a right of appeal has been conferred by statute, (Halsbury's Laws of England, 3rd Edn., Vol. 11, p. 130 and the cases cited there). The fact that the aggrieved party has

> another and adequate remedy may be taken into consideration by the superior court in arriving at a conclusion as to whether it should, in exercise of its discretion, issue a writ of certiorari to quash the proceedings and decisions of inferior courts subordinate to it and ordinarily the superior court will decline to interfere until the aggrieved party has exhausted his other statutory remedies, if any. But this rule requiring the exhaustion of statutory remedies before the writ will be granted is a rule of policy, convenience and discretion rather than a rule of law and instances are numerous where a writ of certiorari has been issued in spite of the fact that the aggrieved party had other adequate legal remedies.. . ."

6. At the end of the last century, this court in paragraph 15 of its decision reported in (1998) 8 SCC 1 (Whirlpool Corporation v. Registrar of Trade Marks, Mumbai) carved out the exceptions on the existence whereof a writ court would be justified in entertaining a writ petition despite the party approaching it not having availed the alternative remedy provided by the statute. The same read as under :

(i) where the writ petition seeks enforcement of any of the fundamental rights ;

(ii) where there is violation of principles of natural justice ;

(iii) where the order or the proceedings are wholly without jurisdiction ; or

(iv) where the vires of an Act is challenged.

7. Not too long ago, this court in its decision reported in [2021] SCC Online SC 884 (Assistant Commissioner of State Tax v. Commercial Steel Limited)* has reiterated the same principles in paragraph 11.

> **8.** That apart, we may also usefully refer to the decisions of this Court reported in (1977) 2 SCC 724 (State of U. P. v. Indian Hume Pipe Co. Ltd.)** and (2000) 10 SCC 482 (Union of India v. State of Haryana). **What appears on a plain reading of the former decision is that whether a certain item falls within an entry in a sales tax statute, raises a pure question of law and if investigation into facts is unnecessary, the High Court could entertain a writ petition in its discretion even though the alternative remedy was not availed of ; and, unless exercise of discretion is shown to be unreasonable or perverse, this Court would not interfere. In the latter decision, this court found the issue raised by the appellant to be pristinely legal requiring determination by the High Court without putting the appellant through the mill of statutory appeals in the hierarchy. What follows from the said decisions is that where the controversy is a purely legal one and it does not**
>
> *** (2021) 93 GSTR 1 (SC).**
>
> **** (1977) 39 STC 355 (SC).**
>
> **involve disputed questions of fact but only questions of law, then it should be decided by the High Court instead of dismissing the writ petition on the ground of an alternative remedy being available**.
>
> (Emphasis supplied)

The Apex Court holds that a writ petition challenging a notice would be maintainable notwithstanding availability of an alternative remedy, if the action suffers from want of jurisdiction, *inter alia*. The petitions, therefore, cannot be shown the doors of exit on the score that there is an alternate remedy within the department to challenge the orders. Writ petition is maintainable and entertainable

on the aforesaid score, in terms of the law laid down by the Apex Court in the case of **WHIRLPOOL CORPORATION** and **GODREJ SARA LEE** *supra*. *The said issue is answered accordingly.*

13. In the light of the impugned notice issued under Section 148 suffering a bar under Section 149, *qua* the time limit prescribed, it cannot be saved by addition of Section 150 to the notice, as it does not satisfy the twin conditions with regard to findings in furtherance of the order in appeal and the direction as contained in Section 150 of the Act. **It is upon the aforesaid frail reed of "liberty" the revenue has hung its case, it therefore, tumbles down. What the revenue seeks here, is to breathe life into a proceeding that law itself has laid to rest. To permit this, would allow Section 150 to become an instrument of erasing limitation altogether, a course for which neither precedent nor the statute offers sanction, *albeit*, in the peculiar facts of this case**. Therefore, the notice so issued and any proceeding taken in the aftermath would crumble under the weight of the statute, and in the result would be

rendered unsustainable. The unsustainability of it would lead to its obliteration.

14. For the aforesaid reasons, the following:

O R D E R

(i) Writ Petitions are allowed.

(ii) Impugned notices dated 29-03-2019 issued by the 1st respondent and all further proceedings taken thereto by the 2nd respondent vide Annexure 'B' dated 22-10-2019; Annexure 'C' dated 04-12-2019; and Annexure 'D' dated 23-10-2019 stand obliterated.

(iii) The petitioner would be entitled to all consequential benefits that would flow from the quashment of the orders.

Sd/-
(M.NAGAPRASANNA)
JUDGE

bkp
CT:MJ