



TEL HC: Reassessment Notice And Section 148A Order Cannot Be Challenged U/A 226 At Threshold Stage Without Exhausting Statutory Remedy; Jurisdictional Objections On Section 152(3) And Section 151 Sanction Left To Be Decided By Assessing Officer

Facts of the case:

Nitin Enterprises ('the Petitioner'), a partnership firm engaged in trading of electrical fittings and retail, having its office at Hyderabad, filed its return of income for Assessment Year ('AY') 2024-25 on 04.10.2024 declaring total income of Rs. 21,01,230, which was processed and accepted u/s 143(1) of the Income-tax Act, 1961 ('the Act'). Pursuant to a search and seizure action u/s 132 of the Act conducted on 22.12.2023 in the case of M/s. Polycab India Limited and its group concerns, the Assessing Officer ('AO') issued a show cause notice dated 26.03.2026 u/s 148A(1) of the Act for AY 2024-25, alleging that information received through the Insight Portal under the Risk Management Strategy indicated that the Petitioner had undertaken unexplained and unaccounted transactions aggregating to Rs. 3,46,11,545 during the relevant year. Neither the notice nor its Annexure disclosed any specific seized material connecting the Petitioner to the alleged transactions. The Petitioner filed replies dated 03.04.2026 and detailed objections dated 21.04.2026 denying any transaction with M/s. Polycab India Limited and contending that, since the information relied upon emanated from a search, the proceedings were governed by section 152(3) of the Act. The AO passed an order dated 24.06.2026 u/s 148A(3) of the Act rejecting the objections, relying on additional material including references to the 'Sunrise Group', a parallel set of accounts described as 'Ka', and third-party statements recorded during the search, without dealing with the Petitioner's objections on section 152(3) or the validity of the section 151 sanction. A consequential notice dated 24.06.2026 was issued u/s 148 of the Act, with approval accorded by the Joint Commissioner of Income Tax on the same date u/s 151 of the Act. Aggrieved, the Petitioner filed a writ petition before the Telangana High Court challenging the show cause notice, the section 148A(3) order, and the section 148 notice as being without jurisdiction and contrary to sections 147, 148, 148A, 149, 151 and 152(3) of the Act.

Assessee's contentions:

Learned counsel for the Petitioner submitted that since the entire basis of the impugned proceedings emanated from the search conducted in the case of the Polycab Group on 22.12.2023, which fell within the period 01.04.2021 to 01.09.2024, section 152(3) of the Act, inserted by the Finance Act, 2024 with effect from 01.09.2024, was directly applicable to the reopening, and that the AO failed to consider its applicability, vitiating the assumption of jurisdiction. Reliance was placed on the Gujarat High Court's decision in Bipinkumar Girdharlal Parekh vs. Office of the Assistant Commissioner of Income Tax, holding that section 152(3) is not confined to searched persons but extends to any assessee whose reassessment is initiated on the basis of, or as a consequence of, a search conducted between 01.04.2021 and 01.09.2024, and in whose case incriminating material is found. Reliance was also placed on the Bombay High Court's decisions in Hindustan Lever Ltd. vs. R.B. Wadkar, for the proposition that reasons recorded for reopening must disclose independent application of mind, be clear and unambiguous, and establish a live nexus between the material relied upon and the belief of escapement of income, and in Ananta Landmark (P.) Ltd. vs. CIT, for the proposition that the validity of reassessment proceedings must be tested only on the basis of the reasons recorded and cannot be supplemented or improved upon subsequently.



Revenue's contentions:

The learned Senior Standing Counsel for the Income Tax Department contended that the show cause notice, the section 148A(3) order, and the section 148 notice were issued strictly in exercise of the statutory power to reopen an assessment where information suggesting escapement of income had come to the AO's notice, and could not be equated with a final or concluded determination of tax liability. It was submitted that the material referred to in the Annexure, including information from the Insight Portal and material gathered from the Polycab search, disclosed sufficient reason for the AO to form a prima facie belief warranting further enquiry, and that the sufficiency of such material could not be tested by the Court in writ jurisdiction. It was further contended that proceedings u/s 148A are preliminary and investigative in nature, that the Petitioner had already been afforded an opportunity to respond and had filed objections, and that the Petitioner was obligated to place its explanation and objections, including those on section 152(3) and section 151, before the AO in the reassessment proceedings and allow the assessment to be completed on merits, rather than invoking Article 226 at a stage when no final or prejudicial order had been passed.

Ruling by Telangana High Court:

The Telangana High Court dismissed the Petitioner's writ petition, holding that the impugned show cause notice, the section 148A(3) order and the consequential section 148 notice, being steps preliminary to and forming part of an ongoing reassessment proceeding, could not be assailed at the threshold in exercise of writ jurisdiction. The Court held:

- **Article 226 is not a forum of first resort:** The Court reiterated that its jurisdiction under Article 226, though wide, is not intended to be exercised as a matter of course at every stage of a statutory proceeding, particularly where the statute provides a complete and efficacious mechanism for the assessee to raise all objections, including jurisdictional objections, before the authority conducting the proceedings and, thereafter, before the appellate forum.
- **Section 148A(1) and 148A(3) are preliminary and investigative:** A show cause notice u/s 148A(1) and the order u/s 148A(3) are, in essential character, preliminary and investigative to the formation of a final opinion on escapement of income; they do not conclude any liability, nor foreclose the assessee's right to place its case before the AO in the course of the reassessment that follows.
- **Jurisdictional objections must first be raised before the AO:** The Petitioner had already raised, at the show cause stage itself, substantial objections going to the root of jurisdiction, namely the applicability of section 152(3) and the validity of the section 151 sanction. These being contentions that must, in the first instance, be examined and answered by the AO in the course of completing the reassessment, and thereafter, if the outcome is adverse, before the Commissioner of Income Tax (Appeals) and the Income Tax Appellate Tribunal, both of whom are equally placed to examine such mixed questions of fact and law.
- **AO's failure to deal with the objections does not render the order final:** The Court acknowledged that the AO had not, in terms, dealt with the Petitioner's objections on section 152(3) and section 151 while passing the section 148A(3) order, but held that this omission did not convert a preliminary step in a reassessment proceeding into a final and concluded order amenable to challenge under Article 226 at this stage.



- **Threshold interference confined to total absence of jurisdiction:** While a total absence of jurisdiction or a patent violation of a mandatory statutory pre-condition going to the very root of the power to reassess may justify interference at the threshold without relegating the assessee to the alternative remedy, the Court held that the present case was not such a case, since the contentions raised required an appreciation of the material referred to in the impugned order, namely the Insight Portal information, the material relating to the 'Sunrise Group', and third-party statements recorded during the search, none of which the Court could or ought to undertake in writ jurisdiction at the threshold, more so when the reassessment had not culminated into a final order.

The Writ Petition thus failed and was dismissed, with no order as to costs.

Citation:

Nitin Enterprises vs. Income-tax Officer, Ward-5(1), Hyderabad and Others, W.P. No. 24088 of 2026 (Telangana High Court), order dated 11.08.2026.

Our Comments:

This ruling underscores that the Telangana High Court declined to enter into the merits of the section 152(3) argument, notwithstanding the Petitioner's reliance on the Gujarat High Court's decision in Bipinkumar Girdharlal Parekh, and treated the question of whether reassessment proceedings founded on search material fall within section 152(3) as a mixed question of fact and law to be first tested by the AO and, thereafter, the appellate authorities. The decision also confirms that an AO's silence on a jurisdictional objection at the section 148A(3) stage does not, by itself, render the order amenable to writ challenge; the assessee is expected to press the same objections in the reassessment proceedings and, if aggrieved, in appeal. Assessee's relying on section 152(3) or on defects in the section 151 sanction to resist search-based reassessment should be prepared to substantiate such objections on the merits before the AO in the first instance, rather than approaching the High Court at the show cause or section 148A(3) stage, unless the case demonstrates a total absence of jurisdiction or a patent violation of a mandatory pre-condition apparent without appreciation of disputed material.