

S.V.S. Securities Ltd. .. Petitioner — Writ Petition No. 3313 of 2025

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2026:BHC-OS:6733-DB 5-WP-3313-2025.doc IN THE HIGH COURT OF JUDICATURE AT BOMBAY ORDINARY ORIGINAL CIVIL JURISDICTION WRIT PETITION NO. 3313 OF 2025 S.V.S. Securities Ltd. .. Petitioner Versus The Assistant Commissioner of Income Tax - 4(2)(1) and Ors. .. Respondents Adv. Devendra H. Jain, a/w Adv. Shashank A. Mehta, Adv. Saukhya D. Lakade, i/b Kashayap N. Chothani, for the Petitioner. Adv. Subir Kumar, a/w Adv. Niyanta Trivedi, for the Respondent. CORAM: B. P. COLABAWALLA & FIRDOSH P. POONIWALLA, JJ. DATE: MARCH 12, 2026 P. C.

1. Rule. Respondents waive service. With the consent of the parties, Rule is made returnable forthwith and heard finally.
2. The above Writ Petition challenges the re-assessment proceedings initiated by issuance of notice dated 04.02.2020 under section 148 of the Income Tax Act, 1961 (for short "the IT Act") for the relevant Assessment Year 2015-16.
3. Mr. Jain, the learned counsel appearing on behalf of the Petitioner, submits that the Petitioner is a company Assessee which had Page 1 of 23 MARCH 12, 2026 Darshan Patil 5-WP-3313-2025.doc furnished the Return of Income for the relevant Assessment Year 2015-16 by declaring total income of Rs. 3,64,55,020/-.
4. Regular assessment proceedings were undertaken, and an order of assessment under Section 143(3) was passed on 28.12.2017.
5. Thereafter, Respondent No.1 issued the impugned notice dated 04.02.2020 under Section 148 of the IT Act seeking to reopen the assessment for the relevant Assessment Year 2015-16. The Petitioner furnished the Return of Income in response to the said notice, following which notice under Section 143(2) and other notices under Section 142(1) were issued by Respondent No.1.
6. The Petitioner filed objections against the said re-opening proceedings vide its submission dated 23.03.2021 and the said objections were disposed vide order dated 29.07.2021.
7. The Petitioner then approached this Court by filing Writ Petition [bearing Writ Petition No. 2977 of 2021] challenging the validity of the notice issued under Section 148 and also the order disposing objections, on several grounds. Page 2 of 23 MARCH 12, 2026 Darshan Patil 5-WP-3313-2025.doc
8. This Court disposed of the said Writ Petition vide its final order dated 29.08.2023. The relevant part of the order is extracted below:- "3 The matter is remanded to the Jurisdictional Assessing Officer (JAO), who shall within one week from today make available to petitioner reasons to believe as recorded in the notice dated 4th February 2020 issued under Section 148 of the Income Tax Act, 1961 together with necessary satisfaction obtained from the RANGE 4(2), Mumbai. Within two weeks thereafter, petitioner is at liberty to file a fresh reply or can rely on the reply already filed. Thereafter, within four weeks, order on objections to be passed and before passing any order, personal hearing shall be given to petitioner, notice whereof shall be communicated atleast five working days in advance. If the JAO is going to rely on any order or judgment of any High Court or Tribunal, then a list thereof shall be provided to petitioner alongwith the notice of personal hearing so that petitioner may be able to deal with/distinguish those orders/judgments. Thereafter, the assessment order, if any, to be passed after four weeks from the date of order of objections. 4 Petition disposed. 5 We clarify that we have not made any observation on the merits of the matter."
9. Consequent to the above, the copy of the reasons recorded were provided to the Petitioner on 31.08.2023. The Petitioner furnished its objections against the reopening of assessment before Respondent No.1 on 13.09.2023, however it was conveyed by Respondent No.1 that the same was not visible on the e-filing portal. Hence, the Petitioner re-submitted the same again on 25.09.2023. However, Respondent No. 1 still claimed that he could Page 3 of 23 MARCH 12, 2026 Darshan Patil 5-WP-3313-2025.doc not access it. Hence, the Petitioner physically submitted the said objections before Respondent No.1 on 06.10.2023 and also sent the same via email. Respondent No.1 then passed the order disposing of the objections of the Petitioner on 21.12.2023 and issued notice under Section 142(1) on 25.01.2024.
10. The Petitioner has thereafter filed the present Writ Petition challenging the re-assessment proceedings on several grounds.
11. Mr. Jain, the learned counsel appearing on behalf of the Petitioner, submitted that without prejudice to the jurisdictional grounds raised in the present Writ Petition, the re-assessment proceedings are anyway now barred by limitation. It was submitted that the limitation period to pass the re-assessment order pursuant to the provisions of Section 153 has already elapsed. In support of this contention the following list of dates were tabulated: Sr Events Date 1 Notice issued under section 148 04.02.2020 2 Date of filing Writ Petition (1st round) [WP2977/2021] 20.08.2021 3 Stay granted by Hon'ble High Court 31.08.2021 4 General Limitation period to pass the Final order: First proviso to section 153(2) viz. 12 months from the 31.03.2021 Page 4 of 23 MARCH 12, 2026 Darshan Patil 5-WP-3313-2025.doc end of the year in which notice u/s. 148 was served. However, further extended by TOLA [vide notification no. 74/2021 dated 25.06.2021] 30.09.2021 5 Writ Petition (1st round) disposed of with relevant directions as reproduced in paragraph 29.08.2023 8 above. 7 Exclusion period - Explanation 1(ii) to section 153 728 days [from 31.08.2021 to 29.08.2023] 8 Limitation period after considering exclusion period 28.09.2023 [Original limitation period (30.09.2021) + 728 days] 9 Date of disposing the objections to reopening 21.12.2023 11 Extension as per first proviso to Explanation 1 to 60 days section 153 12 Limitation period after considering the extended period of 60 days from the date of disposing the 19.02.2024 objections to reopening
12. It is contended that applying the provisions of the first proviso to Section 153(2) read with first proviso to Explanation 1 to Section 153, the limitation period/date by which the re-assessment order ought to have been passed was 19.02.2024. It is now contended that since Respondent No.1 did not pass the order of re-assessment by this limitation period (19.02.2024), the re-assessment proceedings are already barred by limitation. Page 5 of 23 MARCH 12, 2026 Darshan Patil 5-WP-3313-2025.doc

13. Per contra, Mr. Subir Kumar, the learned counsel appearing on behalf of the revenue contended that since the re-assessment proceedings were in pursuance of the order of this court in Writ Petition No. 2977 of 2021 - the limitation period ought to be calculated pursuant to the provisions of sub-section (6) of Section 153, which reads as under: "(6) Nothing contained in sub-sections (1) , (1A) and (2) shall apply to the following classes of assessments, reassessments and recomputation which may, subject to the provisions of sub-sections (3), (5) and (5A), be completed- (i) where the assessment, reassessment or recomputation is made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order under section 250, section 254, section 260, section 262, section 263, or section 264 or in an order of any court in a proceeding otherwise than by way of appeal or reference under this Act, on or before the expiry of twelve months from the end of the month in which such order is received or passed by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be; or (ii) where, in the case of a firm, an assessment is made on a partner of the firm in consequence of an assessment made on the firm under section 147, on or before the expiry of twelve months from the end of the month in which the assessment order in the case of the firm is passed." It is submitted that pursuant to the above provisions, the limitation period is still available. Page 6 of 23 MARCH 12, 2026 Darshan Patil 5-WP-3313-2025.doc

14. Mr. Jain, the learned counsel appearing on behalf of the Petitioner, rebutted the above contention of the revenue on the ground that for the purpose of applicability of Section 153(6) the pre-requisite is that there must be "any finding or direction" contained in the specified orders. In the present case, the order of this court dated 29.08.2023 in the first round [Writ Petition No. 2977 of 2021], nowhere provides for any such 'finding or direction'. In support of this rebuttal, reliance was placed on the decision of this Court in the case of Wavy Construction LLP vs. Assistant Commissioner of Income-tax [2025] 170 taxmann.com 174 (Bombay)/[2025] 473 ITR 1 (Bombay)[20-12-2024].

15. We have heard both the parties at length and have also perused the records produced before us.

16. Undisputedly, for the purpose of applicability of the extended limitation period as prescribed under Section 153(6)(i), the mandate is that "...the assessment, reassessment or recomputation is made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order...". Thus, the extended limitation period as provided under Section 153(6)(i) can be made available only if it is first established that the principal order contains such 'finding' or 'directions'. Page 7 of 23 MARCH 12, 2026 Darshan Patil 5-WP-3313-2025.doc

17. An identical question arose before this court in the case of Wavy Construction LLP vs. ACIT [2025] 473 ITR 1 (Bombay), wherein during the first round of the Writ Petition, this court had passed the following order (extract from paragraph 7 of the above decision):- "1. Mr. Walve states that an affidavit of one Biju Thomas, Assistant Commissioner of Income Tax sworn on September 17, 2021 has been filed in compliance with the order dated September 14, 2021. We have considered the affidavit and we accept the explanation given therein.

2. The assessment order dated May 19, 2021 is hereby quashed and set aside. Naturally, consequential notices, if any, are also quashed and set aside.

3. Keeping open the rights and contentions of the parties, we pass the following order with the concurrence of the counsel. (A) The impugned order dated November 25, 2019 (Exhibit 'P' to the petition) disposing the objection raised against reopening of assessment under Section 147 of the Income Tax Act, 1961 (the 'Act') is quashed and set aside. (B) The matter is remanded to the concerned authority to reconsider the objection dated May 6, 2019 and pass further orders. Should petitioner wish to file any further submissions in response to the letter dated April 23, 2019 giving reasons for reopening assessment for AY 2012-13, petitioner may do so within two weeks from today. No extension will be granted. (C) Should petitioner seek any clarification regarding the figures which are mentioned in the reasons for reopening, the concerned authority shall Page 8 of 23 MARCH 12, 2026 Darshan Patil 5-WP-3313-2025.doc provide the same within two weeks of receiving the communication from petitioner. (D) The concerned authority may further dispose of the objection to the reopening of assessment after giving a personal hearing to the petitioner as per Rules prescribed.

4. We clarify that we have not made any observations on the merits of the case.

5. Mr. Walve states that in case of reopening upto the stage of disposal of objection, it remains with the jurisdictional Assessing Officer, and once it is disposed by the jurisdictional Assessing Officer, the matter goes to Faceless Scheme for further assessment. Statement accepted.

6. Writ Petition disposed."

18. After the above order, the Assessing Officer undertook the exercise of re-assessment proceedings and passed the final re-assessment order on 28.09.2022. The Petitioner in that case then approached this court contending that the order of assessment was barred by limitation as provided under Section 153(2) read with proviso below Explanation 1. In rebuttal, the revenue contended that the extended limitation period under sub-section (6) of Section 153 was available for passing the order of re-assessment.

19. This court negated the said contention by holding as under:- "29. To appreciate the issue, as to what has been the interpretation of this provision by the Court is required to Page 9 of 23 MARCH 12, 2026 Darshan Patil 5-WP-3313-2025.doc be seen. The Constitution Bench of Supreme Court in Murlidhar Bhagwan Das (supra) was considering the facts, where the respondent / assessee was assessed to income-tax under Section 23(4) of the IT Act for the assessment year 1949-50, on the ground that the notice issued under sub-section (2) and (4) of Section 22 of the IT Act had not been complied with. On 27 September 1955, the said assessment was cancelled under Section 27 of the IT Act, but before the said cancellation, it was found that an interest income of Rs. 88,737/- received by the assessee in discharge of the debts due from third parties had escaped assessment as the assessee failed to disclose the same. The Income-tax Officer issued a notice under Section 34 (1) (a) of the IT Act for the assessment year 1949-50 on the ground that such income had escaped assessment. After the assessment of that year was set aside under Section 27 of the Act, the Income-tax Officer, ignoring the notice issued by him under Section 34 (1)(a) of the Act, included that amount in the fresh assessment made by him. The assessee preferred an appeal against that order which was disposed of by an order passed by the Appellate Assistant Commissioner on 4 December 1957, in which he held that such income was received by the assessee in the previous accounting year and, therefore, directed that the sum objected should be deleted from the assessment for the year ending 1949-50 and included in the assessment for the year ending 1948-49. Pursuant to the said direction issued by the Appellate Assistant Commissioner, the Income-tax Officer initiated proceedings under Section 34(1) of the Act in respect of the assessment year 1948-49. The notice issued under such section was served on the respondent on 5 December 1957. The assessee filed a petition under Article 226 of the Constitution in the High Court of Judicature at Allahabad praying for quashing of the proceedings, mainly on the ground that the proceedings were initiated beyond the time prescribed by Section 34 of the Act. The High Court

accepted the contention and quashed the proceedings initiated by the Income-tax Officer. It is assailing such orders passed by the High Court, the proceedings reached the Supreme Court. In such context, the Constitution Bench of the Supreme Court examined as to what is the true meaning of the terms of the second proviso to Section 34(3) of the Act, which is quite similar to the provisions of Clause (i) of sub-section (6) of Section 153 of the IT Act. The second proviso to Section 34(3) of the IT Act which fell for consideration of the Supreme Court and Page 10 of 23 MARCH 12, 2026 Darshan Patil 5-WP-3313-2025.doc as extracted in the report, needs to be noted which reads thus: "Provided further that nothing in this section limiting the time within which any action may be taken, or any order, assessment or re-assessment may be made, shall apply to a re-assessment made under Section 27 or to an assessment or re-assessment made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order under Section 31, Section 33, Section 33A, Section 33B, Section 66 or Section 66A."

30. In the context of the facts in hand, the expression "direction" and "in consequence of" or "to give effect to" are the key words which are common expressions used in the second proviso to Section 34(3) of the IT Act, as it stood at the relevant time, and presently as falling under clause (i) of subsection (6) of Section 153 of the IT Act. The Supreme Court in interpreting the said expressions held that the expression "finding" has not been defined in the IT Act. Referring to Order XX Rule 5 of the Code of Civil Procedure, it was observed that a finding is, therefore, a decision on an issue framed in a suit and a finding shall be one which by its own force or in combination with findings on other issues should lead to the decision of the suit itself. It was observed that this was to say, the finding shall be one which is necessary for the disposal of the suit. It was held that a "finding", therefore, can only be that which is necessary for the disposal of an appeal in respect of an assessment of a particular year as the Appellate Assistant Commissioner may hold in the facts, that the income shown by the assessee is not the income for the relevant year and thereby exclude that income from the assessment of the year under appeal. In such situation, the finding in that context is that the income does not belong to the relevant year. It was observed that he may incidentally find that the income belongs to another year, but it is not a finding necessary for the disposal of an appeal in respect of the year of assessment in question. Similarly, the expression "direction" as used in the provision was interpreted when the Court observed that the expression "direction" cannot be construed in vacuum, but must be collated to the directions which the Appellate Assistant Page 11 of 23 MARCH 12, 2026 Darshan Patil 5-WP-3313-2025.doc Commissioner can give under Section 31. It was observed that the expression "directions" in the proviso could only refer to the directions which the Appellate Assistant Commissioner or other Tribunals can issue, under the powers conferred on him or them under the respective sections. It was observed that therefore the expression "finding" and the expression "direction" can be given full meaning, namely, that the finding is a finding necessary for giving relief in respect of the assessment of the year in question and the "direction" is a direction which the appellate or revisional authority, as the case may be, is empowered to give under the provisions. The Court also considered the words "in consequence of or to give effect to" to observe that these words do not create any difficulty, for they have to be collated with, and cannot enlarge, the scope of the finding or direction under the proviso. It was observed that if the scope is limited in such manner, the said words also must be related to the scope of the findings and directions. The relevant observations of the Supreme Court are required to be noted which read thus:- "Now, let us scrutinize the expressions on which strong reliance is placed for the contrary conclusion. The words relied upon are "section limiting the time", "any person", "in consequence of or to give effect to any finding or direction." Pointing out that before the amendment the word "sub-section" was in the proviso but it was replaced by the expression "section", it is contended that this particular amendment will be otiose if it is confined to the assessment year under appeal, for it is said that under no circumstances the Income-tax Officer would have to initiate proceedings for the said year pursuant to an order made by an Appellate Assistant Commissioner. This contention is obviously untenable. The Appellate Assistant Commissioner or the Appellate Tribunal may set aside the notice itself for one reason or other and in that event the Income-tax Officer may have to initiate the proceedings once again in which case section 34(1) will be attracted. The expression "finding or direction", the argument proceeds, is wide enough to take in at any rate a finding that is necessary to dispose of the appeal or direction which Appellate Assistant Commissioners have in practice been issuing in respect of assessments of the years other than those before them in appeal. Page 12 of 23 MARCH 12, 2026 Darshan Patil 5-WP-3313-2025.doc What does the expression "finding" in the proviso to sub-section (3) of section 34 of the Act mean? "Finding" has not been defined in the Income-tax Act. Order XX, rule 5, of the Code of Civil Procedure reads: "In suits in which issues have been framed, the court shall state its finding or decision, with the reasons therefore, upon each separate issue, unless the finding upon any one or more of the issues is sufficient for the decision of the suit." Under this Order, a "finding" is, therefore, a decision on an issue framed in a suit. The second part of the rule shows that such a finding shall be one which by its own force or in combination with findings on other issues should lead to the decision of the suit itself. That is to say, the finding shall be one which is necessary for the disposal of the suit. A "finding", therefore can be only that which is necessary for the disposal of an appeal in respect of an assessment of a particular year. The Appellate Assistant Commissioner may hold, on the evidence, that the income shown by the assessee is not the income for the relevant year and thereby exclude that income from the assessment of the year under appeal. The finding in that context is that that income does not belong to the relevant year. He 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 year of assessment in question. The finding in question must be collated to the directions which the Appellate Assistant Commissioner can give under section 31. Under that section he can give directions, inter alia, under section 31 (3) (b), (c) or (e) or section 31(4). The expression "direction" in the proviso could only refer to the directions which the Appellate Assistant Commissioner or other tribunals can issue under the Page 13 of 23 MARCH 12, 2026 Darshan Patil 5-WP-3313-2025.doc powers conferred on him or them under the respective sections. Therefore, the expression "finding" as well as the expression "direction" can be given full meaning namely, that the finding is finding necessary for giving relief in respect of the assessment of the year in question and the direction is a direction which the appellate or revisional authority, as the case may be, is empowered to give under the sections mentioned therein. The words "in consequence of or to give effect to" do not create any difficulty, for they have to be collated with, and cannot enlarge, the scope of the finding or direction under the proviso. If the scope is limited as aforesaid, the said words also must be related to the scope of the findings and directions." (emphasis supplied)

31. In *Rajinder Nath* (supra) the expressions "finding" and "direction" fell for consideration of the Supreme Court as used in the provisions of Section 153(3)(ii) of the IT Act. The contention urged before the Court was whether there was any finding or direction within the meaning of Section 153(3)(ii) of the Act in the order passed by the Appellate Assistant Commissioner, in consequence of which or to give effect to which the assessments in question were made. In such context, the Supreme Court considered as to what could be the meaning required to be attributed to the expressions "finding" and "direction". It was held that the finding given in an appeal, revision or reference arising out of an assessment must be a 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. As regards the expression "direction" in Section 153(3)(ii) of the IT Act, it was observed that it was 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. It was thus held that the expressions

"finding" and "direction" in section 153(3)(ii) of the IT Act must be accordingly confined and more particularly considering the fact that section 153(3)(ii) was not a provision enlarging the jurisdiction of the authority or Court and it was a provision which merely raises the bar of limitation of making an assessment order under section 143 or section 144 or section 147. The relevant observations of the Court are required to be noted which read thus: Page 14 of 23 MARCH 12, 2026 Darshan Patil 5-WP-3313-2025.doc

32. ".....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.

33. The expressions "finding" and "direction" are limited in meaning. A finding given in an appeal, revision or reference arising out of an assessment must be a 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 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 of making an assessment order under section 143 or section 144 or section 147: ITO v. Murlidhar Bhagwan Das [1964][1964] [1964] 52 ITR 335 (SC) (SC) (SC) and N. K. T. Sivalingam Chettiar v. CIT. Page 15 of 23 MARCH 12, 2026 Darshan Patil 5-WP-3313-2025.doc [1967] 66 ITR 586 (SC) (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 S. 153(3)(ii) dealing with limitation merely, it is not easy to appreciate the relevance or validity of the point." 34.....

35. 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. Therefore, in our judgment the order of the Appellate Assistant Commissioner contains neither a finding nor a direction within the meaning of section 153(3)(ii) of the Income Tax Act in consequence of which or to give effect to which the impugned assessment proceedings can be said to have been taken."

32. Similar issue had fell for consideration of the Division Bench of the Karnataka High Court in Tally India (P.) Ltd. (supra) wherein the Court, in the context of the provisions of Section 153(1)(a) and Section 153(3)(ii) of the IT Act, was considering the contention as urged by the assessee that no direction / finding has been issued by the High Court in the order dated 7 March 2012 passed in the Writ Petition and when a direction was issued to remit the matter asking the assessee to appear before the Assessing Officer on a particular date did not tantamount to either issuing a direction / finding within the meaning of Section 153(3)(ii) of the IT Act. The Court applying the decisions of the Supreme Court in Murlidhar Bhagwan Das (supra) and Page 16 of 23 MARCH 12, 2026 Darshan Patil 5-WP-3313-2025.doc Rajinder Nath (supra) observed that these provisions are concerned only when a finding is given in an appeal, revision or reference are concerned, arising out of an assessment and it must be a finding necessary for disposal of a particular case and similarly, a direction must be an expressed direction necessary for disposal of the case before authority or Court and must also be a direction which the authority or Court is empowered to give while deciding a case before it. It was held that it was evident that the order dated 7 March 2012 passed by the High Court neither contained any finding nor any direction and accordingly, accepted the contention as urged on behalf of the assessee and held against the Revenue. The relevant observations as made by the Court which are similar to the facts in hand, are required to be noted which read thus:- "7. A bench of this court by an order dated 07.03.2012 disposed of the writ petition viz., W.P.No.45313/2011 in the following terms:

3. Having regard to the submission made by both the counsel, there is no option but to accept the writ petition, set aside the impugned order and remit the matter to the 1st respondent-Assessing Officer.

4. The petitioner shall take these proceedings as notice to them and shall appear before the 1st respondent on 21st March 2012. The petitioners are not entitled for any fresh notice.

8. The Supreme Court in Rajinder Nath v. CIT, [1979] [1979] 2 Taxman 204/120 ITR 14 (SC) (SC) (SC); [1979] taxman 204 (SC) and ITO v Murlidhar Bhagwan Das [1964] [1964] [1964] 52 ITR 335 (SC) (SC) (SC), 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 the 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 March 7, 2012 Page 17 of 23 MARCH 12, 2026 Darshan Patil 5-WP-3313-2025.doc passed by learned Single Judge of this court neither contains any finding nor any direction.

9. The proceedings were stayed for a period from December 8, 2011 to March 7, 2012, i.e., for a period of 103 days and if the period of 103 days is added, and a period of 60 days as prescribed in the proviso to Section 153(4) is added, the draft order ought to have been passed by the Assessing Officer upto May 6, 2012, whereas, in the instant case, the draft order has been passed on July 5, 2012 and therefore, the draft order is barred by limitation and no fault can be found with the finding of the tribunal."

20. Consequent to the above discussion, this court concluded by holding as under:- "34. Thus, applying the principles of law as laid down in the decisions in Murlidhar Bhagwan Das (supra), Rajinder Nath (supra) and Tally India (P.) Ltd. (supra), it is clear that the order dated 21 September 2021 passed by the Division Bench (supra) does not contain any findings necessary for disposal of the writ petition in a particular manner, so as to govern the issues which would be decided by the Assessing Officer. We may observe that in the context in hand when the Revenue seeks to take recourse to sub-section (6)(i) of Section 153 of the IT Act so as to avail all the benefits of extended period

as stipulated by such provision, necessarily the Court is required to apply the principles as enunciated in the decisions as noted by us hereinabove, so as to make an exception from the applicability of sub-sections (1), (1A) and (2) and subject to the provisions of sub-sections (3), (5) and (5A) can be, only in the event when such assessment, reassessment and recomputation is being made qua the assessee "in consequence of or to give effect to any finding or direction" of any Court, as relevant in the present facts. Thus, the words "in consequence of or to give effect" would be required to be read in conjunction. As both these expressions are complementary to each other namely that such assessment, reassessment or recomputation is Page 18 of 23 MARCH 12, 2026 Darshan Patil 5-WP-3313-2025.doc required to be made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order of the nature as specified in clause (i) of sub-section (6). Thus, the consequence needs to be created by such order and as a result of a finding or direction as may be contained in an order, as the provision envisages. It is but for natural, that any finding or direction needs to be taken to its logical conclusion and which is the sequel which would emanate from a finding or direction in the order. Thus, the intention of the legislature in providing for such expression is that an order which clause (i) of sub-section (6) talks about, is necessarily required to be an order which not only guides, but controls the course of such assessment, reassessment or recomputation, and not otherwise. In reaching to this conclusion, we are supported by what has been held by the Supreme Court in Murlidhar Bhagwan Das (supra) when the Supreme Court observed that the words "in consequence of or to give effect to" do not create any difficulty, for they have to be collated with, and cannot enlarge, the scope of the finding or direction under the proviso. It was further observed that if the scope is limited in such event, the said words also must be related to the scope of the findings and directions."

21. In the present case also, on perusal of paragraph 3 and 4 of the order of this court dated 29.08.2023 (as reproduced in paragraph 8, above) it can be observed that this Court held that: (a) The matter was remanded back to the Jurisdictional Assessing Officer; (b) The said Officer shall provide the Petitioner with the copy of reasons recorded within a period of one week. Page 19 of 23 MARCH 12, 2026 Darshan Patil 5-WP-3313-2025.doc (c) The Petitioner was granted liberty to file objections to reopening against such reasons recorded. (d) Within 4 weeks thereafter, the said officer was then required to pass the order disposing the objections. (e) Further, it was stated that no order of assessment was to be passed within a period of four weeks from such date of disposing the objection. The moot question before us is whether the above can constitute a 'finding' or 'direction' of this court for the purpose of the applicability of section 153(6)(i).

22. In the present case of the Petitioner, this court, in its order dated 29.08.2023 merely laid down the time line within which Respondent No.1 was to provide the Petitioner with the copy of the reasons recorded, then the time limit within which the Petitioner could file its objections, and then the period by which Respondent No.1 should dispose of the objection raised by the Petitioner. After this, Respondent No.1 could then pass the order of final assessment, if any to be passed, but not anytime within four weeks from the date of disposing the objections raised by the Petitioner to reopening of the assessment. Page 20 of 23 MARCH 12, 2026 Darshan Patil 5-WP-3313-2025.doc

23. The above observations in the order of this Court cannot be regarded as 'findings' necessary for disposal of the Writ Petition in a particular manner, so as to govern the issues which would be decided by the Assessing Officer. As held by this court in Wavy Construction LLP vs. ACIT (supra), the Revenue can seek to take recourse to sub-section (6)(i) of Section 153 of the IT Act so as to avail all the benefits of the extended period as stipulated by such provision, only in the event when such assessment, reassessment and recomputation is being made qua the Assessee "in consequence of or to give effect to any finding or direction" of any Court, as relevant in the present facts. Thus, the words "in consequence of or to give effect" would be required to be read in conjunction. As both these expressions are complementary to each other, namely, that such assessment, reassessment or recomputation is required to be made on the Assessee or any person in consequence of or to give effect to any finding or direction contained in an order of the nature as specified in clause (i) of sub-section (6). Thus, the consequence needs to be created by such order and as a result of a finding or direction as may be contained in an order, as the provision envisages. It is but natural, that any finding or direction needs to be taken to its logical conclusion and which is the sequel which would emanate from a finding or direction in the order. Thus, the intention of the legislature in providing for such expression is that an order which clause (i) of sub-section Page 21 of 23 MARCH 12, 2026 Darshan Patil 5-WP-3313-2025.doc (6) talks about, is necessarily required to be an order which not only guides, but controls the course of such assessment, reassessment or recomputation, and not otherwise. In fact, this court in its order dated 29.08.2023, specifically in paragraph 5 thereof, stated "We clarify that we have not made any observation on the merits of the matter." Thus, even otherwise the said order dated 29.08.2023 of this court nowhere provided any 'findings' or 'directions' on the impugned case.

24. Thus, considering the above, we are not persuaded to accept the contention of revenue that this case would fall within the provisions of section 153(6)(i). In fact, the order dated 29.08.2023 passed by this Court on the petitioner's writ petition do not, in any manner, record a finding or issue directions as understood in terms of clause (i) of sub-section(6) of Section

153. Accordingly, the revenue cannot avoid the consequence of limitation in the present case, being triggered by the first proviso to Section 153(2) read with first proviso to Explanation 1 to Section 153.

25. We therefore hold that applying the first proviso to Section 153(2) read with the first proviso to Explanation 1 to Section 153, the limitation for the Assessing Officer to pass the Assessment Order had come to an end on 19.02.2024. There is no Assessment Order passed till date because there was a stay operating in the Writ Petition from 26.03.2024. However, Page 22 of 23 MARCH 12, 2026 Darshan Patil 5-WP-3313-2025.doc that makes little difference because the Assessment Order had to be passed latest by 19.02.2024, when no stay was in operation.

26. For the aforesaid reasons, the Petition succeeds. It is accordingly allowed in terms of prayer clause (a). We further state that since the present writ petition is disposed on the ground that the limitation period to pass the final re-assessment order had already elapsed, we are not expressing any opinion on the other jurisdictional grounds raised in the Writ Petition.

27. Rule is made absolute in the aforesaid terms and the Writ Petition is also disposed of in terms thereof. There shall be no orders as to costs.

28. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order. [FIRDOSH P. POONIWALLA, J.] [B. P. COLABAWALLA, J.] Page 23 of 23 MARCH 12, 2026 Darshan Patil Signed by: Darshan Patil Designation: PA To Honourable Judge Date: 17/03/2026 18:33:48