[2026] 184 taxmann.com 90 (Orissa)[18-02-2026]

INCOME TAX: Where search under section 132 was conducted during pendency of assessment proceedings and assessee claimed abatement under section 158BA(2), relief was denied as no material showed that search concerned assessee in his individual status or revealed undisclosed income for block period; consequently, writ challenging assessment and penalty proceedings was to be dismissed

[2026] 184 taxmann.com 90 (Orissa)

HIGH COURT OF ORISSA

Saroj Kumar Sahoo

v.

National Faceless Assessment Centre Assessment Unit Income-tax Department, New Delhi*

HARISH TANDON, CJ.
AND MURAHARI SRI RAMAN, J.
W. P. (C) NO. 30861 OF 2025
FEBRUARY 18, 2026

Section 158BA, read with sections 132, 143, 144B and 158B, of the Income-tax Act, 1961 - Block assessment in search cases - Assessment of undisclosed income (Abatement of pending assessment) - Assessment year 2022-23 - Assessee's return was selected for scrutiny under CASS and assessment under section 143 read with section 144B was pending when a search under section 132 was conducted in respect of certain entities - Assessee contended that pending assessment stood abated under section 158BA(2) as assessment year 2022-23 fell within 'block period' defined in section 158B - Whether though assessment year fell within block period, abatement contemplated under Chapter XIV-B is confined to assessment of 'total undisclosed income' discovered as a result of search - Held, yes - Whether since assessment was initiated on scrutiny of return relating to disclosed income and no material was brought on record to demonstrate that search concerned assessee in his individual status or that any undisclosed income of assessee was unearthed during search, relief under section 158BA(2) could not be granted merely on basis of pendency of assessment - Held, yes - Whether therefore writ petition challenging assessment order passed under section 143(3) read with section 144B and consequential penalty proceedings was liable to be dismissed - Held, yes [Paras 7, 8.28, 9 and 9.1] [In favour of revenue]

Words and Phrases : Word 'means and includes' as occurring in section 158B of the Income-tax Act, 1961, Word 'any' as occurring in the Explanation to section 158B of the Income-tax Act, 1961, Word 'total undisclosed income' as occurring in section 158BA of the Income-tax Act, 1961 and Word 'block period' as occurring in section 158B of the Income-tax Act, 1961

FACTS

- The assessee filed return of income on 8-10-2022 declaring income of about Rs. 81 lakhs. The case was selected for scrutiny under CASS for issues including high income with no entry in Schedule Assets and Liabilities, high liabilities vis-à-vis low income/receipts and creditors exceeding 50 per cent of purchases.

An intimation dated 1-6-2023 under section 144B and notice under section 143(2) were issued. Thereafter, notices under section 142(1) were issued to which the assessee furnished partial compliance and sought personal hearing.

- The Assessing Officer passed an assessment order dated 21-3-2024 under section 143(3) read with section 144B raising a demand of about Rs. 7.80 crore. On writ, the High Court by order dated 9-5-2024 set aside the assessment order for want of personal hearing and remitted the matter for fresh adjudication.

- Pursuant to remand, an intimation dated 29-7-2024 under section 144B was issued initiating fresh faceless assessment. Further notices under section 142(1) dated 16-9-2024 and 4-10-2024 were issued and partial compliance was made on 11-10-2024. While the assessment proceedings for assessment year 2022-23 were pending, a search under section 132 was conducted from 26-11-2024 to 28-11-2024. In connection with the search, summons under section 131(1A) dated 7-2-2025 were issued by the Investigation Wing. Thereafter, reminders and further notices under section 142(1) and show-cause notices were issued to which the assessee filed replies. Subsequently, the Assessing Officer passed an assessment order dated 17-3-2025 under section 143(3) read with sections 260 and 144B for assessment year 2022-23, raising a demand of about Rs. 45.20 crore. Consequentially, penalty proceedings were initiated and orders were passed under sections 270A, 271A, 271B and 272A(1)(d) read with section 274.

- On writ to the High Court:

HELD

- If an order is quashed for breach of natural justice, it does not mean that proceedings are terminated; nonetheless, they are restored to the position before such breach occurred. [Para 5.5]

- In the instant case, since the Assessing Officer is proceeding to assess the petitioner under section 143 pursuant to order of remit by this Court, it can be said that the proceeding is pending as on the date of search stated to have conducted under section 132. The copy of Panchanama vide Annexure-17 evinces that the search under section 132 commenced on 26-11-2024 and concluded on 28-11-2024. Summons dated 7-2-2025 under section 131(1A) was by the DDIT/ADIT (Inv), 1(2), Bhubaneswar (Annexure-20) to the petitioner directing production of documents pertaining to periods from financial year 2018-19 till the date of issue of summons and personal deposition. In furtherance thereto subsequent notice dated 3-4-2025 by the said authority was issued. Thus, when this Court has set aside the Assessment Order dated 21-3-2024 of the Assessing Officer on the ground of non-adherence to principle of audi alteram partem, the proceeding for assessment under section 143 for the assessment year 2022-23 is said to be pending as on the date of commencement of search under section 132. [Para 5.6]

- Having diligently considered the arguments of the petitioner and taking note of aforesaid facts as remained uncontroverted by the Senior Standing Counsel, this Court finds from section 158BA that where on or after 1-9-2024 search is initiated under section 132, or books of account, other documents or any assets are requisitioned under section 132A, then the Assessing Officer shall proceed to assess or reassess the "total undisclosed income of the block period in accordance with the provisions of this Chapter" and the assessment or reassessment or recomputation, other than said Chapter pertaining to "any assessment year falling in the block period", defined under section 158B, pending on the date of initiation of the search under section 132, or making of requisition under section 132A, as the case may be, shall abate and shall be deemed to have abated on the date of initiation of search or making of requisition. [Para 7]

- Thus, income tax is payable on the income earned during the previous year. The impugned assessment year in the present case being 2022-23, it relates to previous year 2021-22. Section 158B defines "block period". [Para 7.1]

- Looking at the definition of “block period” in section 158B, it is manifest that the meaning of the term is ascribed using the words “means … includes”. The interpretation of such phrase has been explained by the Supreme Court in Satish Chander Ahuja v. Sneha Ahuja (2020) 12 SCR 189, wherein it was held that where a definition clause employs the expressions “means” followed by “includes”, the legislature intends to provide an exhaustive definition, while the portion introduced by the word “includes” only clarifies or

expands the content of what is already meant by the term defined. In other words, the use of the word “means” indicates a hard-and-fast and exhaustive definition, and the subsequent use of “includes” serves to explain or extend the ambit of the defined expression without altering its essential scope. Thus, the definition of “block period” under section 158B must be construed in the light of this principle of statutory interpretation. [Para 7.2]

- Keeping in view the interpretation of a definition clause with "means ... includes", glance at definition of "block period" contained in section 158B makes it clear that the search being commenced on 26-11-2024 and concluded on 28-11-2024, the previous year starts from 1-4-2024 and ending on 31-3-2025. Hence, "preceding previous year" as per definition of "block period" in section 158B would be 2023-24. The impugned assessment order dated 17-3-2025 (Annexure-27) being with respect to assessment year 2022-23, the relevant "Previous Year" would be 2021-22. [Para 7.3]

- Pertaining to the assessment year, 2022-23, the previous year commences from 1-4-2021 and ends on 31-3-2022. "Six assessment years preceding previous year in which the search was initiated under section 132 or any requisition was made under section 132A" as per definition of "block, period" contained in section 158B vide Chapter XIV-B would be computed accordingly. To clarify, it may be stated that the search being conducted on 26-11-2024, the relevant previous year would be 2023-24. Preceding previous year is, thus, 2022-23. "Six assessment years preceding previous years" would be: i. 2023-24; ii. 2022-23; iii. 2021-22; iv. 2020-21; v. 2019-20; vi. 2018-19. [Para 7.4]

- The previous year in question, i.e., 2021-22 (assessment year 2022-23) would, thus, fall within the expression "six years preceding the previous year" "in which the search was initiated under section 132 ... and also includes the period starting from the first day of April of the previous year in which search was initiated". [Para 7.5]

- Reading section 158BA as amended by virtue of the Finance (No.2) Act, 2024 and the Finance Act, 2025, leaves no scope for ambiguity that pending proceedings under any other Chapter of the IT Act on the date of initiation of search or making requisition shall abate and shall be deemed to have been abated so far as it relates to "assessment year falling in the block period". [Para 7.8]

- Thus this Court finds that provisions of section 158BA(2) is attracted when the assessment year falls in the ken of definition of the term "block period" as defined under section 158B. [Para 7.9]

- This Court finds force in the argument of the petitioner that the (re)assessment under section 143(3) read with section 260 and section 144B pertaining to assessment year 2022-23 falls within the meaning of definition of "block period" envisaged in section 158B, so that pending (re)assessment on the date of initiation of the search under section 132, or making of requisition under section 132A, as the case may be, would stand abated by operation of law. [Para 7.10]

- As is ex facie from Panchanama that the search was commenced on 26-11-2024 and concluded on 28-11-2024, the assessment pending under section 143 with respect to "six assessment years preceding the previous years" would abate. But with caveat, other conditionalities contained in Chapter XIV-B are required to be satisfied. [Para 7.11]

- There cannot be any quarrel with respect to exposition of law with respect to interpretation of section 153A. Material distinction is perceived on careful reading of provisions of section 153A juxtaposed with section 158BA. Section 153A dealing with "assessment in case of search or requisition" in the first proviso to sub-section (1) thereof confers that "the Assessing Officer shall assess or reassess the total income in respect of each assessment year falling within such six assessment years and for the relevant assessment year or years" and the second proviso thereto speaks of abatement by using the expression "any assessment year falling within the period of six assessment years and for the relevant assessment year or years referred to this sub-section pending on the date of initiation of the search under section 132 or making requisition under section 132A". Nonetheless, Chapter XIV-B— "Special Procedure for Assessment of Search Cases" in section 158BA(1) vests power on the Assessing Officer to "proceed to assess or reassess the total undisclosed income of the block period in accordance with the provisions of this Chapter" and speaks of abatement in sub-section (2) thereof by employing the expression "any

assessment year falling in the block period". As has already been discussed in the preceding paragraph the definition of the term "block period" in section 158B makes it unequivocal that the period in question, i.e., assessment year 2022-23 (relating to previous year 2021-22) is comprehended within the expression "six assessment years preceding the previous year in which the search was initiated under section 132 or any requisition was made under section 132A and also includes the period starting from the first day of April of the previous year in which search was initiated or requisition was made and ending on the date of the execution of the last of the authorisation for such search or such requisition". [Para 8.5]

- Both the provisions read along side would go to show that they operate in different fields. Whereas section 153A gives scope to the Assessing Officer to assess/reassess "total income", section 158BA restricts assessment/reassessment only "total undisclosed income" of the "block period" in accordance with the provisions of Chapter XIV-B. Therefore, discernible distinction exists between provisions of section 153A visa-vis section 158BA. [Para 8.7]

- Notice dated 1-6-2023 issued under section 144B was for framing of assessment under section 143. Said notice manifests that by acknowledging return furnished for the assessment year 2022-23, the assessment of the petitioner-individual bearing PAN ASGPS9755A would be undertaken in the faceless manner. [Para 8.8]

- The assessment order dated 17-3-2025 depicts that: "The assessee had filed return of income for the assessment year 2022-23 vide Acknowledgement No.628985661081022 on 8-10-2022, declaring total income of Rs. 81 lakhs under section 139(1). The assessee is an individual engaged in the business of transportation of goods by road and trading of iron ore and showing his return of income from House Property, income from Business, capital gain and other sources. The case was selected under scrutiny under CASS. The reason for selection under CASS was:" 1. High income reported in the return and no entry in Schedule Assets and Liabilities of return of income; 2. High liabilities as compared to low income/ receipts; 3. Creditors are more than 50 per cent of the purchases made during the year. [Para 8.9]

- It is emanated from the above extracts of the notice and the assessment order that the case of the assessee was selected for assessment/reassessment of "total income" as disclosed in the return pertaining to assessment year 2022-23. Pleadings are lacking with respect to the fact whether the impugned assessment/reassessment of the petitioner is confined to "undisclosed income" in terms of section 158BB read with section 158B. The petitioner having merely advanced his argument based on section 158BA(2) could not demonstrate that the search under section 132 was undertaken with respect to any income other than disclosed in his return indicating "individual status". Furthermore, the Panchnama is silent about search being conducted on the petitioner's income disclosed/undisclosed in his individual status. [Para 8.10]

- Pleading in the above regard falls short of in the writ petition with respect to "other person" qua abatement. It is evident from paragraph 6 of the writ petition that the petitioner sought to rely on a particular sub-section of section 158BA to hold that the assessment or reassessment would abate if search is conducted under section 132 or requisition is made under section 132A. Such approach of the petitioner is misdirected and upon misreading of the provisions of section 158BA read with section 158BD which indicate that the (re)assessment of undisclosed income is to be made in accordance with the provisions provided in Chapter XIV-B. Therefore, provisions contained in whole of said Chapter have to be taken into consideration. [Para 8.12]

- Harmonious construction of the provisions contained in Chapter XIV-B unambiguously leads to project that in order to decide whether assessment/reassessment would stand abated in terms of section 158BA(2), it is required that a computation is required to be made. The abatement contemplated under section 158BA is, thus, confined to undisclosed income in view of amendment carried in the Finance Act, 2025. [Para 8.15]

- This apart another pertinent fact is perceived having glance at Panchanama dated 28-11-2024 (Annexure-17). It depicts that warrant was issued in the names of Siddhiriddhi International, SSAB Energy and Minerals, Siddhiriddhi Builders, Siddhiriddhi Steel and Power, Siddhiriddhi Mandap and Retreat and Siddhiriddhi Hatchery and search was conducted at Plot No. 404/612 and 404/6I3, Madhapur, Keonjhar -

758001. Nothing is cited that search was conducted in respect of person having individual status, i.e. the petitioner. The assessment order dated 17-3-2025 reveals that it is framed against the petitioner on scrutiny of return pertaining to the assessment year 2022-23 in individual status. [Para 8.16]

- Explanation to section 158B employs the words "Panchnama drawn in relation to 'any person' in whose case the warrant of authorisation has been issued". From the Panchnama it is manifest that the search was in relation to juristic persons and independent entities other than individual. [Para 8.17]

- With the aforesaid delineated legal position, on examination of the pleadings/averments of the writ petitioner, following disputed questions of fact inter alia emerge: i. Though assessment year 2022-23 falls within the scope of the term "block period" in section 158BA(2) read with section 158B, reading other provisions of Chapter XIV-B would make it clear that the provisions relating to assessment, reassessment etc. under said Chapter is confined to "total undisclosed income as a result of search". Nothing is brought on record to suggest that the impugned Assessment framed under section 143 did contain "total undisclosed income as a result of search". ii. It is crystal clear from Panchnama that the search was conducted with respect to entities having juristic personalities/status, whereas the impugned assessment order dated 17-3-2025 indicates assessment under section 143 read with section 260 and section 144B relates to the petitioner, pursuant to Computer Aided Scrutiny Selection (known as "CASS") of return furnished for the assessment year 2022-23 in his individual status. iii. Further reading of the notice and the assessment order reveals that the assessment was on account of scrutiny of return and initiation of assessment proceeding was for the reasons enumerated therein. This indicates unequivocal position that the assessment was in respect of "disclosed income" contained in the return with respect to the individual. iv. Nothing is cited or was it argued that incriminating material is found in course of search of entities qua the instant assessee-petitioner and in the assessment proceeding under section 143 such undisclosed income, if any, was made available to the Assessing Officer. [Para 8.28]

- Such germane factors being not available for consideration by the Assessing Officer to take a decision whether section 158BA(2) would attract in the instant case, this Court refuses to exercise the discretionary power under Article 226/227 of the Constitution of India. [Para 8.29]

- Under the aforesaid premises, this Court desists from exercising power under Article 226/227 of the Constitution of India to entertain the writ petition by considering disputed factual matrix as discussed above. [Para 8.31]

- In absence of material to demonstrate that the search of petitioner (individual status) under section 132 was conducted with respect to his "total undisclosed income" as envisaged under Chapter XIV-B for the assessment year falling within the ken of "block period", this Court is afraid to accede to the contentions of the petitioner and relief claimed in the writ petition merely based on provision contained in sub-section (2) of section 158BA. [Para 9]

- Nothing is brought on record to suggest that the petitioner's "undisclosed income" is subject matter of search along with companies-entities whose names appeared in the Panchnama. No iota of evidence would evince to depict that the search of said companies-entities resulted in discovery of "total undisclosed income" and that too it included any portion of his income remained undisclosed in the return furnished for the assessment year 2022-23 in his individual status. It is only on fulfilment of conditions laid in the provisions contained in Chapter XIV-B that the Assessing Officer gets clothed with the jurisdiction to proceed to make assessment of total undisclosed income for the block period if any incriminating material is found. Therefore, the Assessing Officer is said have jurisdiction to proceed with under the provisions of Chapter XIV-B. [Para 9.1]

- Hence, this writ Court is loathe in exercising extraordinary jurisdiction by entertaining the writ petition under Articles 226 and 227 of the Constitution of India on the disputed questions of fact and does not find reasonable ground to show indulgence in the matter as the case of the petitioner does not fall within the parameters discussed in CIT v. Chhabil Dass Agarwal [2013] 36 taxmann.com 36/217 Taxman 143/357 ITR 357 (SC)/(2014) 1 SCC 603. [Para 9.2]

- Ergo, no case is made out by the petitioner to invoke power under Article 226 of the Constitution of India

to intermeddle with the assessment order dated 17-3-2025 passed under section 143(3) read with sections 260 and 144B pertaining to the assessment year 2022-23 on the anvil of provisions of section 158BA(2), simpliciter. [Para 9.3]

- In view of discussions made above, the writ petition stands dismissed and pending interlocutory application(s) is also disposed of, but in the circumstances there shall be no order as to costs. [Para 10]

CASE REVIEW

Pr. CIT v. Abhisar Buildwell (P.) Ltd. [2023] 149 taxmann.com 399/293 Taxman 141/454 ITR 212 (SC)/(2024) 2 SCC 433 (para 8.7) *distinguished*

CASES REFERRED TO

Saroj Kumar Sahoo v. *National Faceless Assessment Centre* [2024] 164 taxmann.com 760 (Orissa) (para 2.2), *Whirlpool Corporation* v. *Registrar of Trade Marks* (1998) 8 SCC 1 (para 2.7), *Radha Krishan Industries* v. *State of H.P.* [2021] 127 taxmann.com 26 (SC) (para 2.7), *Pr. CIT* v. *Abhisar Buildwell (P.) Ltd.* [2023] 149 taxmann.com 399/293 Taxman 141/454 ITR 212 (SC) (para 3.4), *Anant R. Kulkarni* v. *Y.P. Education Society* [2013] 4 taxmann.com 1314 (SC) (para 5.3), *Anantdeep Singh* v. *The High Court of Punjab and Haryana at Chandigarh* (2024) 9 SCR 135 (para 5.4), *Satish Chander Ahuja* v. *Sneha Ahuja* (2020) 12 SCR 189 (para 7.2), *Shanti Construction (P.) Ltd.* v. *State of Odisha* (2025) 11 SCR 475 (para 7.6), *Bhavnagar University* v. *Palitana Sugar Mill (P.) Ltd.* (2003) 2 SCC 111 (para 8.13), *Sita Soren* v. *Union of India* [2024] 160 taxmann.com 103 (SC) (para 8.18), *Lucknow Development Authority* v. *M. K. Gupta* (1994) 1 SCC 243 (para 8.19), *Shri Balaganesan Metals* v. *M.N. Shanmugham Chetty* (1987) 2 SCC 707 (para 8.20), *Arjun Panditrao Khotkar* v. *Kailash Kushanrao Gorantyal* (2020) 7 SCR 180 (para 8.21), *Cape Brandy Syndicate* v. *IRC* (1921) 1 KB 64 (para 8.25), *Commissioner of Sales Tax Commissioner, Uttar Pradesh* v. *Modi Sugar Mills* (1961) 2 SCR 189 (para 8.26), *Consolidated Coffee Ltd.* v. *Coffee Board* AIR 1980 SC 1468 (para 8.27), *Penguin Trading & Agencies Ltd.* v. *State of Orissa* 2007 (Supp.-I) OLR 738 (para 8.27), *Ashok Leyland Ltd.* v. *State of Tamil Nadu* 2004 taxmann.com 1780 (SC) (para 8.27), *East End Dwelling Co. Ltd.* v. *Finsbury Borough Council* (1951) 2 All ER 587 (para 8.27), *State of Bombay* v. *Pandurang Vinayak* AIR 1953 SC 244 (para 8.27), *CIT* v. *S. Teja Singh* AIR 1959 SC 352 (para 8.27), *M. Venugopal* v. *Divisional Manager, Life Insurance Corporation of India, Machilipatnam, A.P.* (1994) 2 SCC 323 (para 8.27), *Indian Oil Corporation Limited* v. *Chief Inspector of Factories* (1998) 5 SCC 738 (para 8.27), *Voltas Ltd.* v. *Union of India* [1995] 80 Taxman 267 (SC) (para 8.27), *Harish Tandon* v. *Additional District Magistrate, Allahabad, U.P.* (1995) 1 SCC 537 (para 8.27), *G. Viswanathan* v. *Hon?ble Speaker, Tamil Nadu Legislative Assembly, Madras* (1996) 2 SCC 353 (para 8.27), *Union of India* v. *Arulmozhi Iniarasu* [2011] 7 taxmann.com 858 (SC) (para 8.4) and *CIT* v. *Chhabil Dass Agarwal* [2013] 36 taxmann.com 36/217 Taxman 143/357 ITR 357 (SC) (para 9.2).

Saswat Kumar Acharya, **Abhijeet Agarwal**, **Jaish Joshi** and **Dhiren Chaudhary**, Advs. *for the Petitioner.* **Subash Chandra Mohanty**, Sr. Standing Counsel and **Avinash Kedia**, Junior Standing Counsel *for the Respondent.*

JUDGMENT

1. Assailing the legality and propriety of Assessment Order dated 17.03.2025 (Annexure-27) passed in the Assessment Unit, Income Tax Department under Section 143(3) read with Section 260 and Section 144B of the Income Tax Act, 1961 pertaining to the Assessment Year 2022-23, as also consequential further orders imposing penalties by initiating proceedings under Section 270A, Section 271A, Section 271B and Section 272A(*l*)(*d*) read with Section 274, the petitioner has approached this Court by way of filing this writ petition craving to invoke extraordinary jurisdiction under Articles 226 and 227 of the Constitution of India.

1.1. A seminal issue whether the Assessing Officer has jurisdiction to pass the Assessment Order dated 17.03.2025 as also the consequential orders imposing penalties inasmuch as these orders are passed contrary to avowed purport of sub-section (2) of Section 158BA of the Income Tax Act, 1961.

Facts:

2. Shorn off irrelevant particulars adumbrated in the writ petition, suffice it to catalogue hereunder necessary factual details to address the issue raised in the writ petition.

2.1. The case of the petitioner being selected for the purpose of faceless assessment/reassessment with respect to the Assessment Year 2022-23, an intimation dated 01.06.2023 was issued invoking provisions of Section 144B of the Income Tax Act, 1961 (for brevity be referred to as, "IT Act"). On acknowledging filing of return of income on 08.10.2022 for the Assessment Year 2022-23 (relevant Finance Year being 2021-22), a Notice dated 01.06.2023 under Section 143(2) of the IT Act was issued seeking clarification on certain issues and the petitioner was instructed to produce evidence and the petitioner's return was selected for scrutiny. After seeking for adjournments on different dates when the proceeding was continuing, on certain dates the petitioner has claimed to have proffered explanations with evidence to meet the query of the Assessing Officer. The petitioner has stated to have complied with terms of notice(s) under Section 142(1) for production of documents, though partially.

2.2. To a Notice dated 01.03.2024 under Section 142 issued, the petitioner while submitting his reply on 05.03.2024 requested for personal hearing. The petitioner was issued a Show Cause Notice dated 14.03.2024, whereby it was stipulated as to why the proposed variation to the reply furnished by him on 26.09.2023 would not be made and was directed to show cause why the variations proposed should not be added to the income. In response thereto, re-submitting the documents, a detailed reply was given on 19.03.2024 with request to grant opportunity of personal hearing. Having not granted such opportunity, the Assessing Officer issued Assessment Order dated 21.03.2024 under Section 143(3) read with Section 144B in which a total demand of Rs.7,79,86,085/- was raised. Aggrieved thereby, the petitioner assailed the aforesaid Assessment Order before this Court by way of a petition under Articles 226 and 227 of the Constitution of India which was registered as *Saroj Kumar Sahoo* v. *National Faceless Assessment Centre* [2024] 164 taxmann.com 760 (Orissa)/W.P.(C) No.11561 of 2024 and was disposed of vide Order dated 09.05.2024 with a direction to the Assessing Officer for fresh adjudication after affording proper opportunity of personal hearing. The petitioner, therefore, was issued an intimation dated 29.07.2024 for completion of assessment in accordance with the procedure laid down in Section 144B. Said intimation shows that the case of the petitioner for Assessment Year 2022-23 has been selected for the purpose of faceless assessment. A Notice dated 16.09.2024 under Section 142(1) of the IT Act was served with direction to furnish documents before 30.09.2024 and another Notice dated 04.10.2024 under Section 142(1) of the IT Act was issued. The petitioner submitted partial compliance with written submission dated 11.10.2024.

2.3. While the proceeding for assessment with respect to Assessment Year 2022-23 in connection with Notice under Section 143 was pending adjudication, a search operation under Section 132 of the IT Act, 1961 was commenced on 26.11.2024 and concluded on 28.11.2024.

2.4. Notwithstanding the assessment proceeding by issue of Notice for assessment under Section 143 being abated in terms of Section 158BA(2) of Chapter XIV-B of the IT Act, the petitioner was issued a reminder letter on 17.01.2025 and 29.01.2025 in which it was directed to respond to the notices under Section 142(1) of the Act dated 16.09.2024 and 04.10.2024. The petitioner on 05.02.2025 was issued a Show Cause Notice whereby an opportunity was given to show cause as to why the assessment should not be completed under Section 144 on the basis of material available on record. A response to the said notice was submitted with detailed reply thereto on 10.02.2025.

2.5. While the matter stood thus, in connection with the search proceedings, the Deputy Director of Income Tax/ ADIT (Inv.), 1(2), Bhubaneswar sent a summons notice dated 07.02.2025 to the petitioner under Section 131(1A) of the IT Act. However, the petitioner on 14.02.2025 was issued another Notice under Section 142(1) of the IT Act from the Assessment Unit, Income Tax Department in which he was directed to furnish documents on or before 20.02.2025. The petitioner responded to it and submitted a written note along with the documents on 20.02.2025. The petitioner on 25.02.2025 was issued another Notice to show cause as to why the proposed variation would not be made under Section 144. This apart, the petitioner on 25.02.2025 was issued a Notice under Section 142(1) of the IT Act in which he was directed to furnish documents on or before 28.02.2025. Though in compliance thereto documents were submitted on 28.02.2025, on request of the petitioner proceeding stood adjourned to 03.03.2025. The petitioner on 03.03.2025 was issued further notice indicating as to why the proposed variation would not be made. An opportunity was given therein to show cause on or before 10.03.2025. On the ground of illness of the petitioner, on his request for adjournment the proceeding moved further to 12.03.2025. The petitioner's request for adjournment on 12.03.2025 got rejected.

An Assessment Order dated 17.03.2025 has been passed in the Assessment Unit of the Income Tax Department under Section l43(3) read with Section 260 and Section 144B of the IT Act, for Assessment Year 2022-23 and said order accompanied Demand Notice dated 17.03.2025 under Section 156 in which a total demand of Rs.45,20,09,261/- was directed to be discharged.

2.6. In furtherance to the aforementioned impugned Assessment Order, proceedings for imposition of penalties under various provisions being initiated, separate orders have been passed imposing penalties under Section 270A, Section 271A, Section 271B and Section 272A(*l*)(*d*) of the IT Act.

2.7. Questioning the legal sanctity and sustainability of the Assessment Order, the writ petition has been pursued by raising contention that since the assessment under Section 143 was pending as on the date of search under Section 132 or requisition being made under Section 132A, in view of sub-section (2) of Section 158BA of Chapter XIV-B of the IT Act the Assessing Officer ceases to have jurisdiction to proceed with pending assessment and, therefore, the Assessment Order should be treated abated. This writ petition is maintainable and liable to be entertained by application of principles reiterated in *Radha Krishan Industries* v. *State of H.P.* [2021] 127 taxmann.com 26 (SC)/2021 SCC Online SC 334, by the Hon'ble Supreme Court of India referring to *Whirlpool Corporation* v. *Registrar of Trade Marks* (1998) 8 SCC 1, wherein following exceptions have been carved out:

> "28. The principles of law which emerge are that:
>
> ***
>
> (*iii*) Exceptions to the rule of alternate remedy arise where—
>
> (*a*) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution;
>
> (*b*) there has been a violation of the principles of natural justice;
>
> (*c*) the order or proceedings are wholly without jurisdiction; or
>
> (*d*) the vires of a legislation is challenged;
>
> ***"

2.8. As the Assessing Officer lacks jurisdiction to proceed till culmination of "block assessment" defined under Section 158BA, it is posed in the writ petition that the exercise of power under Section 143(3) to pass impugned Assessment Order is contrary to express provisions contained in Section 158BA.

Arguments advanced by the counsel for the petitioner:

3. With the aforesaid backdrop of factual matrix, Sri Saswat Kumar Acharya, learned Advocate submitted that Section 158BA under Chapter XIV-B of the IT Act has been brought into the statute book with effect from 01.09.2024 by which a special procedure for assessment of material unearthed during the course of search has been provided. Pertinently, Section 158BA(2) specifically states that despite anything contained in any other provisions of the IT Act, if any, assessment or reassessment or re-computation under the provisions of the IT Act (except under Chapter XIVB) pertaining to any assessment year falling in the block period, pending on the date of initiation of the search under Section 132 or 132A of IT Act shall abate and shall be deemed to have been abated on the date of search or making of requisition.

3.1. Amplifying his argument, Sri Saswat Kumar Acharya, learned Advocate would demonstrate that the proceedings pertaining to the impugned Assessment Order were pending on the date on which search was conducted (i.e., 26.11.2024) which is after the date from which Section 158BA came into effect (i.e., 01.09.2024).

3.2. Referring to paragraph 9 of the writ petition, it is sought to be impressed upon that since the assessment for Assessment Year 2022-23 was pending on 26.11.2024, i.e., the date on which the search under Section 132 was initiated, by operation of law, such pending assessment stood automatically abated as per Section 158BA. In other words, no assessment could have been completed under Section 143(3) read with Section 144B in respect of the said assessment year.

3.3. Learned counsel for the petitioner, therefore, vehemently contended that in view of such explicit provisions contained in sub-section (2) of Section 158BA of the IT Act, the proceeding initiated by issue of Notice under Section 143 should have been treated as abated.

3.4. To bolster his argument, the learned counsel placed reliance on *Pr. CIT* v. *Abhisar Buildwell (P.) Ltd.* [2023] 149 taxmann.com 399/293 Taxman 141/454 ITR 212 (SC)/(2024) 2 SCC 433, and vociferously submitted that illegality is writ large on the face of the Assessment Order dated 17.03.2025, passed in the Assessment Unit, Income Tax Department, despite knowledge about a search being conducted under Section 132 having been initiated on 26.11.2024, which fact is glaringly available on "Panchanama" dated 28.11.2024; nevertheless, the Assessing Officer proceeded to issue the impugned order.

Hearing:

4. Though short point is involved in the matter as to whether the Assessing Officer has the jurisdiction to proceed to finalise the assessment for the Assessment Year 2022-23 (Previous Year 2021-22), initiated prior to search operation conducted under Section 132 of the IT Act in view of explicit provision contained in sub-section (2) of Section 158BA, and copy of writ petition was served on the learned Senior Standing Counsel Sri Subash Chandra Mohanty, way back on 27.10.2025, no instructions appears to have been supplied by the Income Tax Department.

4.1. Appreciating the apprehension of the learned Advocate on behalf of the petitioner for the steps contemplated to be taken up by the Department for recovery of demanded tax and penalties, it was felt prudent to proceed with the matter on the basis of arguments advanced on the question of law as posed above.

4.2. Since the issue posits question of law emanating from the facts pleaded in the writ petition and it was conceded by the learned Advocate for the petitioner Sri Saswat Kumar Acharya that in the event no incriminating material is found in course of search operation, the Revenue is not remediless, but it is protected to revive the abated proceeding(*s*), no fruitful purpose would be subserved in keeping this writ petition pending.

4.3. This Court on the above limited question heard counsel for both the sides.

Consideration of pleadings and discussion:

5. The pleadings on record would suggest no disputed facts inasmuch as the same are supported by documentary evidence. The relevant dates necessary for adjudication of the present case are not objected to.

5.1. The Assessment Year in question is 2022-23 with respect to which Assessment Order dated 17.03.2025 (Annexure-27) has been passed under Section 143(3) read with Section 260 and Section 144B of the IT Act. In addition thereto, separate orders are passed imposing penalties invoking Section 270A, Section 271A, Section 271B and Section 272A(*l*)(*d*) of the IT Act

5.2. Having set aside the Assessment Order dated 21.03.2024 (Annexure-12) in W.P.(C) No.11561 of 2024 vide Order dated 09.05.2024 for want of personal hearing (audi alteram partem), this Court remitted the matter for adjudication afresh.

5.3. It is well-settled principle of law, as reiterated by the Supreme Court of India in *Anant R. Kulkarni* v. *Y.P. Education Society* [2013] 4 taxmann.com 1314 (SC)/(2013) 6 SCR 1124 qua the effect of setting aside an order, that:

> "It is a settled legal proposition that, once the Court sets aside an order of punishment on the ground, that the enquiry was not properly conducted, the Court should not severely preclude the employer from holding the inquiry in accordance with law. It must remit the concerned case to the disciplinary authority, to conduct the enquiry from the point that it stood vitiated, and to conclude the same in accordance with law. However, resorting to such a course depends upon the gravity of delinquency involved. Thus, the court must examine the magnitude of misconduct alleged against the delinquent employee. It is in view of this, that courts/tribunals, are not competent to quash the charge-sheet and related disciplinary proceedings, before the same are concluded, on the aforementioned grounds. (Vide: Managing Director, ECIL, Hyderabad etc. etc. Vrs. B. Karunakar etc. etc., AIR 1994 SC 1074; Hiran Mayee Bhattacharyya Vrs. Secretary, S.M. School for Girls, (2002) 10 SCC 293; U.P. State Spinning C. Ltd. Vrs. R.S. Pandey, (2005) 8 SCC 264; and Union of India Vrs. Y.S. Sandhu, Ex-Inspector, AIR 2009 SC 161)."

5.4. A reference to *Anantdeep Singh* v. *The High Court of Punjab and Haryana at Chandigarh* (2024) 9 SCR 135 may not be inept in the present context, wherein it has been stated thus:

> "Once the termination order is set aside and judgment of the High Court dismissing the writ petition challenging the said termination order has also been set aside, the natural consequence is that the employee should be taken back in service and thereafter proceeded with as per the directions. Once the termination order is set aside then the employee is deemed to be in service. We find no justification in the inaction of the High Court and also the State in not taking back the appellant into service after the order dated 20.04.2022. No decision was taken either by the High Court or by the State of taking back the appellant into service and no decision was made regarding the back wages from the date the termination order had been passed till the date of reinstatement which should be the date of the judgment of this Court. In any case, the appellant was entitled to salary from the date of judgment dated 20.04.2022 till fresh termination order was passed on 02.04.2024. The appellant would thus be entitled to full salary for the above period to be calculated with all benefits admissible treating the appellant to be in continuous service. "

5.5. If an order is quashed for breach of natural justice, it does not mean that proceedings are terminated; nonetheless, they are restored to the position before such breach occurred.

5.6. In the instant case, since the Assessing Officer is proceeding to assess the petitioner under Section 143 of the IT Act pursuant to order of remit by this Court, it can be said that the proceeding is pending as on the date of search stated to have conducted under Section 132. The copy of Panchanama vide Annexure-17 evinces that the search under Section 132 of the IT Act commenced on 26.11.2024 and concluded on 28.11.2024. Summons dated 07.02.2025 under Section 131(1A) was by the DDIT/ADIT (Inv), 1(2), Bhubaneswar (Annexure-20) to the petitioner-Saroj Kumar Sahoo directing production of documents pertaining to periods from Financial Year 2018-19 till the date of issue of summons and personal deposition. In furtherance thereto subsequent notice dated 03.04.2025 by the said authority was issued. Thus, when this Court has set aside the Assessment Order dated 21.03.2024 of the Assessing Officer on the ground of non-adherence to principle of audi alteram partem, the proceeding for assessment under Section 143 for the Assessment Year 2022-23 is said to be pending as on the date of commencement of search under Section 132 of the IT Act.

Provisions of the IT Act:

6. At this juncture it is felt necessary to take note of relevant provisions as amended up-to-date. Amendments carried in Section 158B and Section 158BA of the Income Tax Act, 1961 by virtue of the Finance (No.2) Act, 2024 (No.15 of 2024) and the Finance Act, 2025 (No.7 of 2025), so far as relevant, run thus:

> "Chapter-I
>
> Preliminary
>
> 1. Short title and commencement.—
>
> (1) This Act may be called the Finance (No. 2) Act, 2024.
>
> (2) Save as otherwise provided in this Act,—
>
> (*a*) Sections 2 to 87 shall be deemed to have come into force on the 1st day of April, 2024;
>
> (*b*) Sections 114 to 157 shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
>
> ***
>
> Chapter-III
>
> Direct Taxes Income-Tax
>
> ***
>
> 49. Substitution of new Chapter for Chapter XIV-B.—

For Chapter XIV-B of the Income-tax Act, the following Chapter shall be substituted with effect from the 1st day of September, 2024, namely:—

'Chapter XIV-B

Special Procedure for Assessment of Search Cases

158B. In this Chapter, unless the context otherwise requires,—

(*a*) "block period" means the period comprising previous years relevant to six assessment years preceding the previous year in which the search was initiated under Section 132 or any requisition was made under Section 132A and also includes the period starting from the 1st day of April of the previous year in which search was initiated or requisition was made and ending on the date of the execution of the last of the authorisations for such search or such requisition;

(*b*) "undisclosed income" includes any money, bullion, jewellery [1][, virtual digital asset] or other valuable article or thing or any expenditure or any income based on any entry in the books of account or other documents or transactions, where such money, bullion, jewellery, [2][, virtual digital asset] valuable article, thing, entry in the books of account or other document or transaction represents wholly or partly income or property which has not been or would not have been disclosed for the purposes of this Act, or any expense, exemption, deduction or allowance claimed under this Act which is found to be incorrect, in respect of the block period.

Explanation. —

For the purposes of this Chapter, the last of the authorisations shall be deemed to have been executed,—

(*a*) in the case of search, on the conclusion of search as recorded in the last panchnama drawn in relation to any person in whose case the warrant of authorisation has been issued;

(*b*) in the case of requisition under Section 132A, on the actual receipt of the books of account or other documents or assets by the Authorised Officer.

158BA. Assessment of [3][total undisclosed income] as a result of search.—

(1) Notwithstanding anything in any other provisions of this Act, where on or after the 1st day of September, 2024, a search is initiated under Section 132, or books of account, other documents or any assets are requisitioned under Section 132A, in the case of any person, then, the Assessing Officer shall proceed to assess or reassess the [4][total undisclosed income] of the block period in accordance with the provisions of this Chapter.

(2) The assessment or reassessment or recomputation under the provisions of this Act (other than this Chapter), if any, pertaining to any assessment year falling in the block period, pending on the date of initiation of the search under Section 132, or making of requisition under Section 132A, as the case may be, shall abate and shall be deemed to have abated on the date of initiation of search or making of requisition.

(3) Where during the course of any pending proceeding for the assessment or reassessment or recomputation under the provisions of this Act (other than this Chapter), a reference under sub-section (1) of Section 92CA has been made, or an order under sub-section (3) of Section 92CA has been passed, such assessment or reassessment or recomputation, along with such reference made or order passed, as the case may be, shall also abate and shall be deemed to have abated on the date of initiation of search or making of requisition.

(4) Where any assessment under the provisions of this Chapter is [5][required to be made] in the case of an assessee in whose case a subsequent search is initiated, or a requisition is made,

such assessment shall be duly completed, and thereafter, the assessment in respect of such subsequent search or requisition shall be made under the provisions of this Chapter:

Provided that in a case where the period of completing the assessment in respect of subsequent search is less than three months such period shall be extended to three months from the end of the month in which the assessment in respect of the earlier search was completed.

(5) If any proceeding initiated under this Chapter or any order of assessment or reassessment made under clause (*c*) of sub-section (1) of Section 158BC has been annulled in appeal or any other legal proceeding, then, notwithstanding anything in this Chapter or Section 153, [6][the assessment or reassessment or recomputation or reference or order relating to any assessment year] which has abated under sub-section (2) or subsection (3), shall revive with effect from the date of receipt of the order of such annulment by the Principal Commissioner or Commissioner:

Provided that such revival shall cease to have effect, if such order of annulment is set aside.

(6) The total income (other than undisclosed income) of the assessment year relevant to the previous year in which the last of the authorisations for a search is executed or a requisition is made, shall be assessed separately in accordance with the other provisions of this Act.

(7) The [7][total undisclosed income] relating to the block period shall be charged to tax, at the rate specified in Section 113, as income of the block period irrespective of the previous year or years to which such income relates.

158BB. Computation of [total undisclosed income][8] of block period.—

[9][(1) The total undisclosed income referred to in subsection (1) of Section 158BA of the block period shall be the aggregate of the following, namely:—

(*a*) undisclosed income declared in the return furnished under Section 158BC;

(*b*) undisclosed income determined by the Assessing Officer under sub-section (2).

(1A) The following income shall not be included in the total undisclosed income of the block period, namely:—

(*a*) the total income determined under sub-section (1) of Section 143 or assessed under Section 143 or Section 144 or Section 147 or Section 153A or Section 153C or assessed earlier under clause (*c*) of sub-section (1) of Section 158BC or sub-section (4) of Section 245D, prior to the date of initiation of the search or the date of requisition, in respect of any of the previous year comprising the block period;

(*b*) the total income declared in the return of income filed under Section 139 or in response to a notice under sub-section (1) of Section 142, prior to the date of initiation of the search or the date of requisition, in respect of any of the previous year comprising the block period, and not covered under clause (*a*);

(*c*) the income computed by the assessee, in respect of-—

(*i*) a previous year, where such previous year has ended and the due date for furnishing the return for such year has not expired prior to the date of initiation of the search or the date of requisition, on the basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course before the date of initiation of search or the date of requisition;

(*ii*) the period commencing from the 1 st day of April of the previous year in which the search is initiated or requisition is made and ending on the day immediately preceding the date of initiation of search or requisition, on the basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course for such period on or before the day immediately preceding the date of initiation of search or the date of requisition;

(*iii*) the period commencing from the date of initiation of the search or the date of requisition and ending on the date of the execution of the last of the authorisations for search or requisition, on the basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course for such period on or before the date of the execution of the last of the authorisations:

Provided that where the Assessing Officer is of the opinion that any part of the income as computed by the assessee under this clause is undisclosed, he may recomputed such income;

(*d*) the total income referred to in sub-section (5) of Section 115A or Section 115G or sub-section (1) of Section 194P.]

(2) The undisclosed income falling within the block period, [10][***] shall be computed in accordance with the provisions of this Act, on the basis of evidence found as a result of search or survey or requisition of books of account or other documents and any other material or information as are either available with the Assessing Officer or come to his notice during the course of proceedings under this Chapter.

[11][(3) Where any income required to be determined as a result of search or requisition of books of account or other documents and any other material or information as are either available with the Assessing Officer or come to his notice during the course of proceedings under this Chapter, or determined on the basis of entries relating to such income or transactions as recorded in books of account and other documents maintained in the normal course on or before the date of the execution of the last of the authorisations, relates to any international transaction or specified domestic transaction referred to in Section 92CA, pertaining to the period beginning from the 1 st day of April of the previous year in which last of the authorisations was executed and ending with the date on which last of the authorisations was executed, such income shall not be considered for the purposes of determining the total undisclosed income of the block period and such income shall be considered in the assessment made under the other provisions of this Act.]

(4) For the purposes of determination of undisclosed income,—

(*a*) of a firm, such income assessed for each of the previous years falling within the block period shall be the income determined before allowing deduction of salary, interest, commission, bonus or remuneration by whatever name called to any partner not being a working partner;

(*b*) the provisions of Sections 68, 69, 69A, 69B and 69C shall, so far as may be, apply and references to "Financial Year" in those sections shall be construed as references to the relevant previous year falling in the block period;

(*c*) the provisions of Section 92CA shall, so far as may be, apply and references to "previous year" in that section shall be construed as reference to the relevant previous year falling in the block period excluding the period referred to in subsection (3).

[12][(5) The tax referred to in sub-section (7) of Section 158BA shall be charged on the total undisclosed income determined in the manner specified in sub-section (1).]

[13][(6) ***]

(7) For the purposes of assessment under this Chapter, losses brought forward from the previous year (prior to the first previous year comprising the block period) under Chapter VI or unabsorbed depreciation under sub-section (2) of Section 32 shall not be set off against the undisclosed income determined in the block assessment under this Chapter but may be carried forward for being set off in the previous year subsequent to the assessment year in which the block period ends, for the remaining period, taking into account the block period and such assessment year, and in accordance with the provisions of this Act. "

7. Having diligently considered the arguments of the Counsel for the petitioner and taking note of aforesaid facts as remained uncontroverted by the learned Senior Standing Counsel, this Court finds from Section 158BA that where on or after 01.09.2024 search is initiated under Section 132, or books of account, other documents or any assets are requisitioned under Section 132A, then the Assessing Officer shall proceed to assess or reassess the "total undisclosed income of the block period in accordance with the provisions of Chapter-XIV-B" and the assessment or reassessment or recomputation, other than said Chapter pertaining to "any assessment year falling in the block period", defined under Section 158B, pending on the date of initiation of the search under Section 132, or making of requisition under Section 132A, as the case may be, shall abate and shall be deemed to have abated on the date of initiation of search or making of requisition.

7.1. "Assessment Year" has been defined under Section 2(9) of the IT Act to mean "the period of twelve months commencing on the 1st day of April every year". The term "Previous Year" has been defined under Section 2(34) of the IT Act to mean "the previous year as defined in Section 3". Section 3 of said Act reads as follows:

"For the purpose of this Act, 'Previous Year' means the Financial Year[14] immediately preceding the Assessment Year:

Provided that in the case of a business or profession newly set up, or a source of income newly coming into existence, in the said Financial Year, the Previous Year shall be the period beginning with the date of setting up of the business or profession or, as the case may be, the date on which the source of income newly comes into existence and ending with the said Financial Year. "

Thus, income tax is payable on the income earned during the Previous Year. The impugned Assessment Year in the present case being 2022-23, it relates to Previous Year 2021-22. Section 158B defines "block period" specifying "six Assessment Years preceding the previous year in which the search was initiated under Section 132 or any requisition was made under Section 132A" Said definition also encompasses "the period starting from the 1st day of April of the previous year in which search was initiated or requisition was made and ending on the date of the execution of the last of authorisations for such search or such requisition".

7.2. Looking at definition of "block period" in Section 158BA, it is manifest that the meaning of the term is ascribed using words "means ... includes". The following interpretation of such phrase is found reflected in *Satish Chander Ahuja* v. *Sneha Ahuja* (2020) 12 SCR 189:

"49. The definition of shared household given under Section 2(*s*) [the Protection of Women from Domestic Violence Act, 2005] as noticed above beginning with expression "shared household means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes. The section uses both the expressions "means and includes". A Three Judge bench judgment of this Court in Bharat Coop. Bank (Mumbai) Ltd. Vrs. Coop. Bank Employees Union, (2007) 4 SCC 685 had occasion to consider Section 2(bb) of Industrial Disputes Act, 1947, which section used both the words "means and includes". Explaining both the expressions, following was laid down in paragraph 23:

> '23. *** It is trite to say that when in the definition clause given in any statute the word "means" is used, what follows is intended to speak exhaustively. When the word "means" is used in the definition, to borrow the words of Lord Esher, M.R. in Gough Vrs. Gough, (1891) 2 QB 665 it is a "hard-and-fast" definition and no meaning other than that which is put in the definition can be assigned to the same. (Also see P. Kasilingam Vrs. P.S.G. College of Technology, 1995 Supp

(2) SCC 348 = AIR 1995 SC 1395.) On the other hand, when the word "includes" is used in the definition, the legislature does not intend to restrict the definition: it makes the definition enumerative but not exhaustive. That is to say, the term defined will retain its ordinary meaning but its scope would be extended to bring within it matters, which in its ordinary meaning may or may not comprise. Therefore, the use of the word "means" followed by the word "includes" in Section 2(bb) of the Industrial Disputes Act is clearly indicative of the legislative intent to make the definition exhaustive and would cover only those banking companies which fall within the purview of the definition and no other. '

50. We may notice another judgment of this Court in Pioneer Urban Land and Infrastructure Limited and Anr. Vrs. Union of India and Ors., (2019) 8 SCC 416 where this Court had occasion to consider both the expressions, i.e., "means and includes". In paragraph 82, this Court laid down:

'82. *** In fact, in Jagir Singh Vrs. State of Bihar, (1976) 2 SCC 942, SCC paras 11 and 19 to 21 and Mahalakshmi Oil Mills Vrs. State of A.P., (1989) 1 SCC 164, SCC paras 8 and 11 (which has been cited in P. Kasilingam Vrs. PSG College of Technology, 1995 Supp (2) SCC 348), this Court set out definition sections where the expression "means" was followed by some words, after which came the expression "and includes" followed by other words, just as in Krishi Utpadan Mandi Samiti Vrs. Shankar Industries, 1993 Supp (3) SCC 361 (2). In two other recent judgments, Bharat Coop. Bank (Mumbai) Ltd. Vrs. Employees Union, (2007) 4 SCC 685, SCC paras 12 and 23 and State of W.B. Vrs. Associated Contractors, (2015) 1 SCC 32, SCC para 14, this Court has held that wherever the expression "means" is followed by the expression "and includes" whether with or without additional words separating "means" from "includes", these expressions indicate that the definition provision is exhaustive as a matter of statutory interpretation. It has also been held that the expression "and includes" is an expression which extends the definition contained in words which follow the expression "means" ***'

51. We may notice two more judgments relied by Shri Jayant Bhushan, learned senior counsel, i.e., The South Gujarat Roofing Tiles Manufacturers Association and Anr. Vrs. The State of Gujarat and Anr., (1976) 4 SCC 601. Shri Bhushan's submission is that use of expression "includes" in Section 2(*s*) has to be read as means. He placed reliance on following observations made by this Court in paragraph 5:

'5. *** Though "include" is generally used in interpretation clauses as a word of enlargement, in some cases the context might suggest a different intention. Pottery is an expression of very wide import, embracing all objects made of clay and hardened by heat. If it had been the legislature's intention to bring within the entry all possible articles of pottery, it was quite unnecessary to add an explanation. We have found that the explanation could not possibly have been introduced to extend the meaning of potteries industry or the articles listed therein added ex abundanti cautela. It seems to us therefore that the legislature did not intend everything that the potteries industry turns out to be covered by the entry. What then could be the purpose of the explanation. The explanation says that, for the purpose of Entry 22, potteries industry "includes" manufacture of the nine articles of pottery named therein. It seems to us that the word "includes" has been used here in the sense of 'means'; this is the only construction that the word can bear in the context. In that sense it is not a word of extension, but limitation; it is exhaustive of the meaning which must be given to potteries industry for the purpose of Entry 22. The use of the word "includes" in the restrictive sense is not unknown. The observation of Lord Watson in Dilworth Vrs. Commissioner of Stamps which is usually referred to on the use of "include" as a word of extension, is followed by these lines:

But the word 'include' is susceptible of another construction, which may become imperative, if the context of the Act is sufficient to show that it was not merely employed for the purpose of adding to the natural significance of the words or expressions defined. It may be equivalent to 'mean and include', and in that case it may afford an exhaustive explanation of the meaning which, for the purposes of the Act, must invariably be attached to these words or expressions. '

52. Next judgment relied by Shri Bhushan is Karnataka Power Transmission Corporation and Anr. Vrs. Ashok Iron Works Private Limited, (2009) 3 SCC 240. In the above case also submission was made before this court that in the definition of person given in section 2(*m*) of Consumer Protection Act, the

expression "includes" should be read as "means". This Court laid down that interpretation of a word or expression must depend on the text and the context. In paragraphs 14 to 17, following was laid down:

> '14. The learned counsel also submitted that the word "includes" must be read as "means". In this regard, the learned counsel placed reliance upon two decisions of this Court, namely;
>
> (1) South Gujarat Roofing Tiles Manufacturers Assn. Vrs. State of Gujarat, (1976) 4 SCC 601 and
>
> (2) RBI Vrs. Peerless General Finance and Investment Co. Ltd., (1987) 1 SCC 424.
>
> 15. Lord Watson in Dilworth Vrs. Stamps Commr., 1899 AC 99 made the following classic statement: (AC pp. 105-06)
>
> '*** The word 'include' is very generally used in interpretation clauses in order to enlarge the meaning of words or phrases occurring in the body of the statute; and when it is so used these words or phrases must be construed as comprehending, not only such things as they signify according to their natural import, but also those things which the interpretation clause declares that they shall include. But the word 'include' is susceptible of another construction, which may become imperative, if the context of the Act is sufficient to show that it was not merely employed for the purpose of adding to the natural significance of the words or expressions defined. It may be equivalent to 'mean and include', and in that case it may afford an exhaustive explanation of the meaning which, for the purposes of the Act, must invariably be attached to these words or expressions. '
>
> 16. Dilworth, 1899 AC 99 and few other decisions came up for consideration in Peerless General Finance and Investment Co. Ltd., (1987) 1 SCC 424 and this Court summarised the legal position that (Peerless case, (1987) 1 SCC 424, SCC pp. 449-50, para 32) inclusive definition by the legislature is used: '32.
>
> (1) to enlarge the meaning of words or phrases so as to take in the ordinary, popular and natural sense of the words and also the sense which the statute wishes to attribute to it;
>
> (2) to include meanings about which there might be some dispute; or
>
> (3) to bring under one nomenclature all transactions possessing certain similar features but going under different names. '
>
> 17. It goes without saying that interpretation of a word or expression must depend on the text and the context. The resort to the word "includes" by the legislature often shows the intention of the legislature that it wanted to give extensive and enlarged meaning to such expression. Sometimes, however, the context may suggest that word "includes" may have been designed to mean "means". The setting, context and object of an enactment may provide sufficient guidance for interpretation of the word "includes" for the purposes of such enactment. '
>
> 53. After noticing the ratio of above judgments, Section 2(*s*), which uses both the expressions "means and includes" and looking to the context, we are of the view that the definition of shared household in Section 2(*s*) is an exhaustive definition. The first part of definition begins with expression "means" which is undoubtedly an exhaustive definition and second part of definition, which begins with word "includes" is explanatory of what was meant by the definition. Shri Nidhesh Gupta, learned senior counsel for the appellant submits that even if it is accepted that the definition of Section 2(*s*) is exhaustive, his case is fully covered in both the parts of the definition.
>
> 54. The use of both the expressions "means and includes" in Section 2(*s*) of the Protection of Women from Domestic Violence Act, 2005, thus, clearly indicate the legislative intent that the definition is exhaustive and shall cover only those which fall within the purview of definition and no other. "

7.3. Keeping in view the interpretation of a definition clause with "means ... includes", glance at definition of "block period" contained in Section 158B of the IT Act makes it clear that the search being commenced on 26.11.2024 and concluded on 28.11.2024, the previous year starts from 01.04.2024 and ending on 31.03.2025. Hence, "preceding previous year" as per definition of "block period" in Section 158B would be 2023-24. The

impugned Assessment Order dated 17.03.2025 (Annexure-27) being with respect to Assessment Year 2022-23, the relevant "Previous Year" would be 2021-22.

7.4. Pertaining to the Assessment Year, 2022-23, the Previous Year commences from 01.04.2021 and ends on 31.03.2022. "Six Assessment Years preceding Previous Year in which the search was initiated under Section 132 or any requisition was made under Section 132A" as per definition of "block, period" contained in Section 158B vide Chapter XIV-B would be computed accordingly. To clarify, it may be stated that the search being conducted on 26.11.2024, the relevant Previous Year would be 2023-24. Preceding Previous Year is, thus, 2022-23. "Six Assessment Years Preceding Previous Years" would be:

i. 2023-24;

ii. 2022-23;

iii. 2021-22;

iv. 2020-21;

v. 2019-20;

vi. 2018-19.

7.5. The Previous Year in question, i.e., 2021-22 (Assessment Year 2022-23) would, thus, fall within the expression "six years preceding the previous year" "in which the search was initiated under Section 132 ... and also includes the period starting from the first day of April of the Previous Year in which search was initiated".

7.6. For better conceptual comprehension a reference may be had to interpretation of "Previous Year" as reflected in *Shanti Construction (P.) Ltd.* v. *State of Odisha* (2025) 11 SCR 475, wherein the following pertinent observations are made:

> "14. The unsuccessful bidder is a company. It is axiomatic from the stand taken by the State in its counter, that the unsuccessful bidder had filed the Income Tax Return for the Financial Year 20202021. The auction notice was issued in the midst of the year i.e. on 11.07.2022. The proper construction of the phrase 'previous Financial Year' therefore, assumes critical importance. Rule 27(4)(*iv*) of the Rules requires the bidder to produce an Income Tax Return of the "previous Financial Year". The said Rule has to be read in harmony with the provisions of the Income Tax Act, 1961. Under Section 139(1) of the aforesaid Act, a company may file the Income Tax Return for the Financial Year 2021-2022 up to 31st of October, 2022. As per auction notice, the bids were required to be submitted on 18.07.2022. The period for filing the Income Tax Return for Financial Year 2021-2022 (relevant to Assessment Year 20222023) was yet to expire. Therefore, on the said date the bidder could not have been expected to file an Income Tax Return for Financial Year 2021-2022 along with its bid documents, as the statutory period for filing the same had not expired.
>
> 15. The reasonable understanding of the term 'previous Financial Year' must therefore, be treated to mean the year immediately preceding Financial Year i.e. 2020-2021, for which the unsuccessful bidder had filed the Income Tax Return. The term 'previous Financial Year in the case of unsuccessful bidder was to be treated as Financial Year 2020-2021 and not 2021-2022. The aforesaid interpretation is in consonance with the provisions of the Income Tax Act, 1961. The Tender Committee, however, proceeded on a narrow and erroneous understanding of the expression of the term 'previous Financial Year' and erroneously concluded that since the unsuccessful bidder had not filed the Income Tax Return for Financial Year 2021-2022, therefore it had not complied with the mandate contained in Rule 27(4)(*iv*) of the Rules. The Tender Committee has erroneously interpreted the tender condition which excludes the highest bidder and defeats the purpose of the tender. Such an interpretation by the Tender Committee undermines the principle that State must act to enhance and not diminish, the public exchequer in case it is dealing with natural resources. When an authority acting under a tender misinterprets the tender condition that diminishes competition and deprives the State of its legitimate revenue, the constitutional duty of the court to interfere is beyond question. The High Court while deciding the writ petition has failed to advert itself to the aforesaid aspect of the matter. The impugned judgment passed by the High

Court, therefore, cannot be sustained. In view of our aforesaid conclusion, it is not necessary for us to advert to various other contentions urged by the parties. "

7.7. Taking aid of the above analysis of the terms "Assessment Year", "Previous Year" and "Financial Year", the expression preceding the previous year" contained in Section 158B assumes significance. The said expression "preceding the Previous Year" refers to any Financial Year that comes before the Previous Year relevant to a particular Assessment Year.

7.8. Reading Section 158BA of the IT Act as amended by virtue of the Finance (No.2) Act, 2024 and the Finance Act, 2025, leaves no scope for ambiguity that pending proceedings under any other Chapter of the IT Act on the date of initiation of search or making requisition shall abate and shall be deemed to have been abated so far as it relates to "Assessment Year falling in the block period".

7.9. Thus this Court finds that provisions of Section 158BA(2) of the IT Act is attracted when the Assessment Year falls in the ken of definition of the term "block period" as defined under Section 158B.

7.10. This Court finds force in the argument of Sri Saswat Kumar Acharya, learned Advocate for the petitioner that the (re)assessment under Section 143(3) read with Section 260 and Section 144B of the IT Act pertaining to Assessment Year 2022-23 falls within the meaning of definition of "block period" envisaged in Section 158B, so that pending (re)assessment on the date of initiation of the search under Section 132, or making of requisition under Section 132A, as the case may be, would stand abated by operation of law.

7.11. As is ex facie from Panchanama that the search was commenced on 26.11.2024 and concluded on 28.11.2024, the assessment pending under Section 143 of the IT Act with respect to "six Assessment Years preceding the Previous Years" would abate. But with caveat, other conditionalities contained in Chapter XIV-B of the IT Act are required to be satisfied.

8. Now it is to be considered whether Writ Court is competent to entertain writ petition and pass orders of abatement solely on the above perspective.

8.1. It is canvassed by Sri Saswat Kumar Acharya, learned Advocate that Section 158BA is a revenue neutral provision and the Revenue is protected notwithstanding such abatement inasmuch as the assessment or reassessment shall stand revived if no incriminating material is unearthed during the course of search operation. Such submission is made stemming on the ratio of judgment rendered by the Hon'ble Supreme Court of India in the case of *Abhisar Buildwell (P.) Ltd. (supra)*.

8.2. Advancing his submission further, he strenuously argued that the Assessing Officer in passing Assessment Order dated 17.03.2025 (Annexure-27) transgressed his jurisdiction and acted contrary to the provisions of Section 158BA(2). Contending that the provisions of Section 153A being identically worded in Section 158BA, Sri Saswat Kumar Acharya, learned Advocate advanced argument that the interpretation of the Hon'ble Supreme Court of India in *Abhisar Buildwell (P.) Ltd. (supra)* would bind the Assessing Officer. He placed strong reliance on paragraphs 33 and 34 of said reported judgment, which are reproduced hereunder:

"33. As per the provisions of Section 153-A, in case of a search under Section 132 or requisition under Section 132-A, the AO gets the jurisdiction to assess or reassess the "total income" in respect of each assessment year falling within six assessment years. However, it is required to be noted that as per the second proviso to Section 153-A, the assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years pending on the date of initiation of the search under Section 132 or making of requisition under Section 132-A, as the case may be, shall abate. As per sub-section (2) of Section 153-A, if any proceeding initiated or any order of assessment or reassessment made under sub-section (1) has been annulled in appeal or any other legal proceeding, then, notwithstanding anything contained in subsection (1) or Section 153, the assessment or reassessment relating to any assessment year which has abated under the second proviso to subsection (1), shall stand revived with effect from the date of receipt of the order of such annulment by the Commissioner. Therefore, the intention of the legislation seems to be that in case of search only the pending assessment/reassessment proceedings shall abate and the AO would assume the jurisdiction to assess or reassess the "total income" for the entire six years period/block assessment period. The intention does not seem to be to reopen the completed/ unabated assessments, unless any incriminating material is found with respect to assessment

year concerned falling within last six years preceding the search. Therefore, on true interpretation of Section 153-A of the 1961 Act, in case of a search under Section 132 or requisition under Section 132-A and during the search any incriminating material is found, even in case of unabated/completed assessment, the AO would have the jurisdiction to assess or reassess the "total income" taking into consideration the incriminating material collected during the search and other material which would include income declared in the returns, if any, furnished by the assessee as well as the undisclosed income. However, in case during the search no incriminating material is found, in case of completed/unabated assessment, the only remedy available to the Revenue would be to initiate the reassessment proceedings under Sections 147/148 of the Act, subject to fulfilment of the conditions mentioned in Sections 147/148, as in such a situation, the Revenue cannot be left with no remedy. Therefore, even in case of block assessment under Section 153-A and in case of unabated/ completed assessment and in case no incriminating material is found during the search, the power of the Revenue to have the reassessment under Sections 147/148 of the Act has to be saved, otherwise the Revenue would be left without remedy.

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 AO 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 and 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 where the undisclosed income is found on the basis of incriminating material, the AO 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 AO 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. "

8.3. In the said reported case being *Abhisar Buildwell (P.) Ltd.* (*supra*) the Hon'ble Supreme Court of India has ultimately been pleased to hold as follows:

"36. In view of the above and for the reasons stated above, it is concluded as under:

36.1. That in case of search under Section 132 or requisition under Section 132-A, the AO assumes the jurisdiction for block assessment under Section 153-A;

36.2. All pending assessments/reassessments shall stand abated;

36.3. In case any incriminating material is found/ unearthed, even, in case of unabated/ completed assessments, the AO would assume the jurisdiction to assess or reassess the "total income" taking into consideration the incriminating material unearthed during the search and the other material available with the AO including the income declared in the returns; and

36.4. In case no incriminating material is unearthed during the search, the AO 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 AO in absence of any incriminating material found during the course of search under Section 132 or requisition under Section 132-A of the 1961 Act. However, the completed/ unabated assessments can be re-opened by the AO in exercise of powers under Sections 147/148 of the Act, subject to fulfilment of the conditions as envisaged/ mentioned under Sections 147/148 of the Act and those powers are saved. "

8.4. It may be apposite to bear in mind the following principle enunciated by the Hon'ble Supreme Court in *Union of India* v. *Arulmozhi Iniarasu* [2011] 7 taxmann.com 858 (SC)/(2011)7 SCC 397:

"14. Before examining the first limb of the question, formulated above, it would be instructive to note, as a preface, the well-settled principle of law in the matter of applying precedents that the Court should not

place reliance on decisions without discussing as to how the fact situation of the case before it fits in with the fact situation of the decision on which reliance is placed. The observations of the courts are neither to be read as Euclid's theorems nor as provisions of statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Disposal of cases by blindly placing reliance on a decision is not proper because one additional or different fact may make a world of difference between conclusions in two cases. [Ref. Bharat Petroleum Corpn. Ltd. Vrs. N.R. Vairamani, (2004) 8 SCC 579; Sarva Shramik Sanghatana (KV) Vrs. State of Maharashtra, (2008) 1 SCC 494 and Bhuwalka Steel Industries Ltd. Vrs. Bombay Iron & Steel Labour Board, (2010) 2 SCC 273.]"

8.5. There cannot be any quarrel with respect to exposition of law with respect to interpretation of Section 153A. Material distinction is perceived on careful reading of provisions of Section 153A juxtaposed with Section 158BA. Section 153A dealing with "Assessment in case of search or requisition" in the first proviso to sub-section (1) thereof confers that "the Assessing Officer shall assess or reassess the total income in respect of each Assessment Year falling within such six Assessment Years and for the relevant Assessment Year or Years" and the second proviso thereto speaks of abatement by using the expression "any Assessment Year falling within the period of six Assessment Years and for the relevant Assessment Year or Years referred to this sub-section pending on the date of initiation of the search under Section 132 or making requisition under Section 132A". Nonetheless, Chapter XIV-B— "Special Procedure for Assessment of Search Cases" in Section 158BA(1) vests power on the Assessing Officer to "proceed to assess or reassess the total undisclosed income of the block period in accordance with the provisions of this Chapter" and speaks of abatement in sub-section (2) thereof by employing the expression "any Assessment Year falling in the block period". As has already been discussed in the preceding paragraph the definition of the term "block period" in Section 158B makes it unequivocal that the period in question, i.e., Assessment Year 2022-23 (relating to Previous Year 2021-22) is comprehended within the expression "six Assessment Years preceding the previous year in which the search was initiated under Section 132 or any requisition was made under Section 132A and also includes the period starting from the first day of April of the previous year in which search was initiated or requisition was made and ending on the date of the execution of the last of the authorisation for such search or such requisition".

8.6. In the wake of such proposition of law as propounded by the Hon'ble Supreme Court of India in the case of *Abhisar Buildwell (P.) Ltd.* (*supra*), qua provisions of Section 153A, this Court now turns to examine whether the said principle has application to the present set of factual situation with respect to making of the Assessment Order dated 17.03.2025 passed in Assessment Unit, Income Tax Department taking into consideration the language contained in Section 158BA.

8.7. Both the provisions read along side would go to show that they operate in different fields. Whereas Section 153A gives scope to the Assessing Officer to assess/reassess "total income", Section 158BA restricts assessment/reassessment only "total undisclosed income" of the "block period" in accordance with the provisions of Chapter XIV-B. Therefore, discernible distinction exists between provisions of Section 153A visa-vis Section 158BA.

8.8. Notice dated 01.06.2023 issued under Section 144B was for framing of assessment under Section 143. Said notice manifests that by acknowledging return furnished for the Assessment Year 2022-23, the assessment of the petitioner-individual bearing PAN ASGPS9755A would be undertaken in the faceless manner. It is made clear in the said notice as follows:

"While acknowledging the care you may have taken in preparing the return of income, there are certain issues, on which further clarification is required. Therefore, the return of income has been selected for scrutiny assessment in accordance with the provisions of the Income Tax Act, 1961. "

8.9. The Assessment Order dated 17.03.2025 depicts that:

"The assessee had filed return of income for the Assessment Year 2022-23 vide Acknowledgement No.628985661081022 on 08.10.2022, declaring total income of Rs.81,00,460/- under Section 139(1) of the Income Tax Act, 1961 ("the Act"). The assessee is an individual engaged in the business of transportation of goods by road and trading of iron ore and showing his return of income from House Property, income from Business, capital gain and other sources. The case was selected under scrutiny under CASS. The reason for selection under CASS was:

1. High income reported in the return and no entry in Schedule Assets and Liabilities of return of income;

2. High liabilities as compared to low income/ receipts;

3. Creditors are more than 50% of the purchases made during the year. "

8.10. It is emanated from the above extracts of the notice and the Assessment Order that the case of the assessee was selected for assessment/reassessment of "total income" as disclosed in the return pertaining to Assessment Year 2022-23. Pleadings are lacking with respect to the fact whether the impugned assessment/reassessment of the petitioner is confined to "undisclosed income" in terms of Section 158BB read with Section 158B. Sri Saswat Kumar Acharya, learned Advocate for the petitioner having merely advanced his argument based on Section 158BA(2) could not demonstrate that the search under Section 132 was undertaken with respect to any income other than disclosed in his return indicating "individual status". Furthermore, the Panchnama is silent about search being conducted on the petitioner's income disclosed/undisclosed in his individual status.

8.11. It may be worthwhile to notice Section 158BD of the IT Act as amended with retrospective effect from 01.09.2024 by virtue of the Finance Act, 2025. Said section stands thus:

"158BD. Undisclosed income of any other person.—

Where the Assessing Officer is satisfied that any undisclosed income belongs to or pertains to or relates to any person (herein referred to as the "other person"), other than the person (herein referred to as the "specified person" for the purposes of this section) with respect to whom search was initiated under Section 132 or requisition was made under Section 132A, then any money, bullion, jewellery, virtual digital asset or other valuable article or thing or any books of account or other documents seized or requisitioned or any other material or information relating to the aforesaid undisclosed income shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed under Section 158BC against such other person and the provisions of this Chapter shall apply accordingly:

Provided that,—

(*a*) where there is one specified person relevant to such other person, the block period for such other person shall be the same as that for the specified person; and

(*b*) where there is more than one specified persons relevant to such other person, the block period for such other persons shall be the same as that for the specified person in whose case the block period ends on a later date:

Provided further that in case of such other person, for the purposes of abatement under sub-sections (2) and (3) of Section 158BA, the reference to the date of initiation of the search under Section 132 or making of requisition under Section 132A shall be construed as reference to the date on which such money, bullion, jewellery, virtual digital asset or other valuable article or thing or any books of account or other documents seized or requisitioned or any other material or information relating to the aforesaid undisclosed income were received by the Assessing Officer having jurisdiction over such other person. "

8.12. Pleading in the above regard falls short of in the writ petition with respect to "other person" qua abatement. It is evident from paragraph 6 of the writ petition that the petitioner sought to rely on a particular sub-section of Section 158BA to hold that the assessment or reassessment would abate if search is conducted under Section 132 or requisition is made under Section 132A. Such approach of the petitioner is misdirected and upon misreading of the provisions of Section 158BA read with Section 158BD which indicate that the (re)assessment of undisclosed income is to be made in accordance with the provisions provided in Chapter XIV-B. Therefore, provisions contained in whole of said Chapter have to be taken into consideration.

8.13. It may be relevant to have regard to the principle laid down in *Bhavnagar University* v. *Palitana Sugar Mill (P.) Ltd.* (2003) 2 SCC 111 expositing that the statute has to be read as a whole. It is the basic principle of construction of statute that the same should be read as a whole, then chapter by chapter, section by section and

words by words. Recourse to construction or interpretation of statute is necessary when there is ambiguity, obscurity, or inconsistency therein and not otherwise. An effort must be made to give effect to all parts of statute and unless absolutely necessary, no part thereof shall be rendered surplusage or redundant. True meaning of a provision of law has to be determined on the basis of what provides by its clear language, with due regard to the scheme of law. Scope of the legislation on the intention of the legislature cannot be enlarged when the language of the provision is plain and unambiguous. In other words, statutory enactments must ordinarily be construed according to its plain meaning and no words shall be added, altered or modified unless it is plainly necessary to do so to prevent a provision from being unintelligible, absurd, unreasonable, unworkable or totally irreconcilable with the rest of the statute. It is also well settled that a beneficent provision of legislation must be liberally construed so as to fulfil the statutory purpose and not to frustrate it.

8.14. Section 158BB deals with computation of total undisclosed income of block period. The total undisclosed income of the block period shall be the aggregate of (*a*) undisclosed income declared in the return furnished under Section 158BC; (*b*) undisclosed income determined by the Assessing Officer under subsection (2). Nevertheless, it is also provided that the total undisclosed income of the block period shall not include certain categories of income specified therein.

8.15. Harmonious construction of the provisions contained in Chapter XIV-B unambiguously leads to project that in order to decide whether assessment/reassessment would stand abated in terms of Section 158BA(2) of the IT Act, it is required that a computation is required to be made. The abatement contemplated under Section 158BA is, thus, confined to undisclosed income in view of amendment carried in the Finance Act, 2025.

8.16. This apart another pertinent fact is perceived having glance at Panchanama dated 28.11.2024 (Annexure-17). It depicts that warrant was issued in the names of M/s. Siddhiriddhi International Pvt. Ltd., SSAB Energy and Minerals Ltd., Siddhiriddhi Builders Pvt Ltd., Siddhiriddhi Steel and Power Pvt. Ltd., Siddhiriddhi Mandap and Retreat Pvt. Ltd. and Siddhiriddhi Hatchery Pvt. Ltd. and search was conducted at Plot No. 404/612 and 404/6I3, Madhapur, Keonjhar - 758001. Nothing is cited that search was conducted in respect of person having individual status, namely Saroj Kumar Sahoo (petitioner). The Assessment Order dated 17.03.2025 (Annexure-27) reveals that it is framed against the petitioner on scrutiny of return pertaining to the Assessment Year 2022-23 in individual status.

8.17. Explanation to Section 158B employs the words "Panchnama drawn in relation to 'any person' in whose case the warrant of authorisation has been issued". From the Panchnama it is manifest that the search was in relation to juristic persons and independent entities other than individual.

8.18. In *Sita Soren* v. *Union of India* [2024] 160 taxmann.com 103 (SC)/(2024) 3 SCR 462 it is observed as follows:

> "103.The words "anything" and "any" when read with their respective operative words mean that a member may claim immunity to say as they feel and vote in a direction that they desire on any matter before the House. These are absolutely outside the scope of interference by the courts. The wide meaning of "anything" and "any" read with their companion words connotes actions of speech or voting inside the House or committee which are absolute. The phrase "in respect of" applies to the collective phrase "anything said or any vote given." The words "in respect of" means arising out of or bearing a clear relation to. This may not be overbroad or be interpreted to mean anything which may have even a remote connection with the speech or vote given. We, therefore, cannot concur with the majority judgment in PV Narasimha Rao Vrs. State (CBI/SPE), (1998) 2 SCR 870."

8.19. The interpretation of word "any" came up for consideration before the Supreme Court of India in *Lucknow Development Authority* v. *M. K. Gupta* (1994) 1 SCC 243 and it is held :

> "The word 'any' dictionarily means 'one or some or all'... The use of the word 'any' in the context it has been used in clause (*o*) indicates that it has been used wider sense extending from one to all."

8.20. In *Shri Balaganesan Metals* v. *M.N. Shanmugham Chetty* (1987) 2 SCC 707, after making a reference to the meaning ascribed to the word in Black's Law Dictionary, 15th Edition, it was held that the word 'any' has a diversity of meaning and may be employed to indicate 'all' or 'every' as well as 'some' or 'one' and its meaning in a given statute depends upon the context and the subject-matter of the statute.

8.21. In *Arjun Panditrao Khotkar* v. *Kailash Kushanrao Gorantyal* (2020) 7 SCR 180 it has been made clear that:

> "23. Under Sub-section (4) [Section 65B(4) of the Evidence Act, 1872], a certificate is to be produced that identifies the electronic record containing the statement and describes the manner in which it is produced, or gives particulars of the device involved in the production of the electronic record to show that the electronic record was produced by a computer, by either a person occupying a responsible official position in relation to the operation of the relevant device; or a person who is in the management of "relevant activities"- whichever is appropriate. What is also of importance is that it shall be sufficient for such matter to be stated to the "best of the knowledge and belief of the person stating it". Here, "doing any of the following things. " must be read as doing all of the following things, it being well settled that the expression "any" can mean "all" given the context (see, for example, this Court's judgments in Bansilal Agarwalla Vrs. State of Bihar, (1962) 1 SCR 331[15] and Om Parkash Vrs. Union of India, (2010) 4 SCC 172[16]). This being the case, the conditions mentioned in sub-section (4) must also be interpreted as being cumulative. "

8.22. Having such understanding of the term "any", when the word "any" is followed by "person" in Explanation to Section 158B, it can be construed to mean "every person" / "everyone".

8.23. Clauses (7) and (31) of Section 2 of the IT Act, 1961 defines the words "assessee" and "person" as under:

> "(7) assessee means a person by whom any tax or any other sum of money is payable under this Act, and includes—
>
> (*a*) every person in respect of whom any proceeding under this Act has been taken for the assessment of his income or assessment of fringe benefits or of the income of any other person in respect of which he is assessable, or of the loss sustained by him or by such other person, or of the amount of refund due to him or to such other person;
>
> (*b*) every person who is deemed to be an assessee under any provision of this Act;
>
> (*c*) every person who is deemed to be an assessee in default under any provision of this Act;
>
> (31) Person includes—
>
> (*i*) An individual,
>
> (*ii*) A Hindu Undivided Family,
>
> (*iii*) A company,
>
> (*iv*) A firm,
>
> (*v*) An association of persons or a body of individuals, whether incorporated or not,
>
> (*vi*) A local authority, and
>
> (*vii*) Every artificial juridical person, not falling within any of the preceding sub-clauses.
>
> Explanation. —
>
> For the purposes of this clause, an association of persons or a body of individuals or a local authority or an artificial juridical person shall be deemed to be a person, whether or not such person or body or authority or juridical person was formed or established or incorporated with the object of deriving income, profits or gains;"

8.24. Minute scrutiny of Panchnama clarifies the position that the search is undertaken qua juristic persons as reflected therein, but it does not show that "person" with "individual" status whose return pertaining to

Assessment Year 2022-23 was selected for assessment under Section 143 of the IT Act on the date of search of entities mentioned in said Panchnama under Section 132.

8.25. In *Cape Brandy Syndicate* v. *IRC* (1921) 1 KB 64 at 71 a well-established principle has been laid down:

> "In a taxing Act one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no presumption as to tax. Nothing is to be read in, nothing is to be implied. One can only look fairly at the language used."

8.26. In *Commissioner of Sales Tax Commissioner, Uttar Pradesh* v. *Modi Sugar Mills* (1961) 2 SCR 189 at 198 it is stated thus:

> "In interpreting a taxing statute, equitable considerations are entirely out of place. Nor can taxing statutes be interpreted on any presumptions or assumptions. The court must look squarely at the words of the statute and interpret them. It must interpret a taxing statute in the light of what is clearly expressed; it cannot imply anything which is not expressed; it cannot import provisions in the statute so as to supply any assumed deficiency. "

8.27. In *Consolidated Coffee Ltd.* v. *Coffee Board* AIR 1980 SC 1468, the observation of the Supreme Court runs as follows:

> "A deemed provision might be made to include what is obvious or what is uncertain or to impose for the purpose of a statute an artificial construction of a word or phrase that would not otherwise prevail. "
>
> When a deeming provision is in operation, the Court is to keep in mind the principle of interpretation of a deeming clause. Whenever a deeming clause occurs in a statute and the Court is called upon to interpret the same, the Court has to first ascertain the purpose for which such deeming clause has been incorporated. Normally a deeming clause is created by way of a legal fiction. Therefore, the Court is to first ascertain the purpose behind the legal fiction. After ascertaining the purpose, the Court must assume those consequences, which are incidental and inevitable corollaries for giving effect to such legal fiction. See, *Penguin Trading & Agencies Ltd.* v. *State of Orissa* 2007 (Supp.-I) OLR 738.
>
> The exposition in *Ashok Leyland Ltd.* v. *State of Tamil Nadu* 2004 taxmann.com 1780 (SC)/(2004) 134 STC 473 (SC) as propounded transpires that when legal fiction is created it must be given its full effect. Reference may also be had to *East End Dwelling Co. Ltd.* v. *Finsbury Borough Council* (1951) 2 All ER 587; *State of Bombay* v. *Pandurang Vinayak* AIR 1953 SC 244; *CIT* v. *S. Teja Singh* AIR 1959 SC 352; *M. Venugopal* v. *Divisional Manager, Life Insurance Corporation of India, Machilipatnam, A.P.* (1994) 2 SCC 323; *Indian Oil Corporation Limited* v. *Chief Inspector of Factories* (1998) 5 SCC 738, *Voltas Ltd.* v. *Union of India* [1995] 80 Taxman 267 (SC)/(1995) Supp. 2 SCC 498, *Harish Tandon* v. *Additional District Magistrate, Allahabad, U.P.* (1995) 1 SCC 537; *G. Viswanathan* v. *Hon?ble Speaker, Tamil Nadu Legislative Assembly, Madras* (1996) 2 SCC 353; *Bhavnagar University (supra)*. Conspectus of decisions referred to would suggest that if one is bidden to treat an imaginary state of affairs as real, one must surely, unless prohibited from doing so also imagine as real the consequences and incidents which, if the putative state of affairs had in fact existed, must inevitably have flowed from or accompanied it. The statute says that one must imagine a certain state of affairs; it does not say that, having done so, one must cause or permit one's imagination to boggle when it comes to the inevitable corollaries of that state of affairs.

8.28. With the aforesaid delineated legal position, on examination of the pleadings/averments of the writ petitioner, following disputed questions of fact inter alia emerge:

i. Though Assessment Year 2022-23 falls within the scope of the term "block period" in Section 158BA(2) read with Section 158B, reading other provisions of Chapter XIV-B would make it clear that the provisions relating to assessment, reassessment etc. under said Chapter is confined to "total undisclosed income as a result of search". Nothing is brought on record to suggest that the impugned Assessment framed under Section 143 did contain "total undisclosed income as a result of search".

ii. It is crystal clear from Panchnama that the search was conducted with respect to entities having juristic personalities/status, whereas the impugned Assessment Order dated 17.03.2025 indicates

assessment under Section 143 read with Section 260 and Section 144B of the IT Act relates to Saroj Kumar Sahoo, pursuant to Computer Aided Scrutiny Selection (known as "CASS") of return furnished for the Assessment Year 2022-23 in his individual status.

iii. Further reading of the Notice and the Assessment Order reveals that the assessment was on account of scrutiny of return and initiation of assessment proceeding was for the reasons enumerated therein. This indicates unequivocal position that the assessment was in respect of "disclosed income" contained in the return with respect to the individual.

iv. Nothing is cited or was it argued that incriminating material is found in course of search of entities qua the instant "assessee"-petitioner and in the assessment proceeding under Section 143 of the IT Act such undisclosed income, if any, was made available to the Assessing Officer.

8.29. Such germane factors being not available for consideration by the Assessing Officer to take a decision whether Section 158BA(2) would attract in the instant case, this Court refuses to exercise the discretionary power under Article 226/227 of the Constitution of India.

8.30. Since no pleading is made nor was any argument advanced by the learned counsel for the petitioner, it is felt prudent to impress that the same are required to be agitated before the competent authority vested with power under the statute. Going through the replies submitted before the Assessing Officer during the course of Assessment proceeding under Section 143 nothing is pointed out that the petitioner-Assessee had taken any plea of abatement under Section 158BA of the IT Act.

8.31. Under the aforesaid premises, this Court desists from exercising power under Article 226/227 of the Constitution of India to entertain the writ petition by considering disputed factual matrix as discussed above.

Conclusion:

9. In absence of material to demonstrate that the search of petitioner (individual status) under Section 132 of IT Act was conducted with respect to his "total undisclosed income" as envisaged under Chapter XIV-B for the Assessment Year falling within the ken of "block period", this Court is afraid to accede to the contentions of the petitioner and relief claimed in the writ petition merely based on provision contained in sub-section (2) of Section 158BA.

9.1. Nothing is brought on record to suggest that the petitioner's "undisclosed income" is subject matter of search along with companies-entities whose names appeared in the Panchnama. No iota of evidence would evince to depict that the search of said companies-entities resulted in discovery of "total undisclosed income" and that too it included any portion of his income remained undisclosed in the return furnished for the Assessment Year 2022-23 in his individual status. It is only on fulfilment of conditions laid in the provisions contained in Chapter XIV-B that the Assessing Officer gets clothed with the jurisdiction to proceed to make assessment of total undisclosed income for the block period if any incriminating material is found. Therefore, the Assessing Officer is said have jurisdiction to proceed with under the provisions of Chapter XIV-B of the Act.

9.2. Hence, this writ Court is loathe in exercising extraordinary jurisdiction by entertaining the writ petition under Articles 226 and 227 of the Constitution of India on the disputed questions of fact and does not find reasonable ground to show indulgence in the matter as the case of the petitioner does not fall within the parameters discussed in *CIT* v. *Chhabil Dass Agarwal* [2013] 36 taxmann.com 36/217 Taxman 143/357 ITR 357 (SC)/(2014) 1 SCC 603.

9.3. Ergo, no case is made out by the petitioner to invoke power under Article 226 of the Constitution of India to intermeddle with the Assessment Order dated 17.03.2025 passed under Section 143(3) read with Sections 260 and 144B of the Income Tax Act, 1961 pertaining to the Assessment Year 2022-23 on the anvil of provisions of Section 158BA(2) of the Income Tax Act, 1961, simpliciter.

10. In view of discussions made above, the writ petition stands dismissed and pending interlocutory application(*s*) is also disposed of, but in the circumstances there shall be no order as to costs.

I agree.

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*In favour of revenue.

1. Inserted by Finance Act, 2025 (No.7 of 2025), with retrospective effect from 01.02.2025.
2. Inserted by Finance Act, 2025 (No.7 of 2025), with retrospective effect from 01.02.2025.
3. Substituted "total income" by Finance Act, 2025 (No.7 of 2025), with retrospective effect from 01.09.2024.
4. Substituted "total income" by Finance Act, 2025 (No.7 of 2025), with retrospective effect from 01.09.2024.
5. Substituted "pending" by Finance Act, 2025 (No.7 of 2025), with retrospective effect from 01.09.2024.
6. Substituted "the assessment or reassessment relating to any assessment year" by Finance Act, 2025 (No.7 of 2025), with retrospective effect from 01.09.2024.
7. Substituted "total income" by Finance Act, 2025 (No.7 of 2025), with retrospective effect from 01.09.2024.
8. Substituted "total income" by Finance Act, 2025 (No.7 of 2025), with retrospective effect from 01.09.2024.
9. Substituted the following appearing in sub-section (1) by Finance Act, 2025 (No.7 of 2025), with retrospective effect from 01.09.2024:

   "[(1) The total income referred to in sub-section (1) of Section 158BA of the block period shall be the aggregate of the following, namely:—

   (*i*) total income disclosed in the return furnished under Section 158BC;

   (*ii*) total income assessed under sub-section (3) of Section 143 or Section 144 or Section 147 or Section 153A or Section 153C prior to the date of initiation of the search or the date of requisition, as the case may be;

   (*iii*) total income declared in the return of income filed under Section 139 or in response to a notice under sub-section (1) of Section 142 or Section 148 and not covered under clause (*i*) or clause (*ii*);

   (*iv*) total income determined where the previous year has not ended, on the basis of entries relating to such income or transactions as recorded in the books of account and other documents maintained in the normal course on or before the date of last of the authorisations for the search or requisition relating to such previous year;

   (*v*) undisclosed income determined by the Assessing Officer under sub-section (2). "

10. Omitted "forming part of the total income referred to in sub-section (1) of Section 158BA," by Finance Act, 2025 (No.7 of 2025), with retrospective effect from 01.09.2024.
11. Substituted sub-section (3) by Finance Act, 2025 (No.7 of 2025), with retrospective effect from 01.09.2024, which stood thus:

    "[(3) Where any evidence found as a result of search or requisition of books of account or other documents and any other material or information as are either available with, the Assessing Officer or come to his notice during the course of proceedings under this Chapter, or determined on the basis of entries relating to such income or transactions as recorded in books of account and other documents maintained in the normal course on or before the date of the search or requisition, relates to any international transaction or specified domestic transaction referred to in Section 92CA, pertaining to the period beginning from the 1st day of April of the previous year in which last of the authorisations was executed and ending with, the date on which last of the authorisations was executed, such evidence shall not be considered for the purposes of determining the total income of the block period and such income shall be considered in the assessment made under the other provisions of this Act.]"

12. Substituted sub-section (5) by Finance Act, 2025 (No.7 of 2025), with retrospective effect from 01.09.2024, which stood thus:

"(5) The tax referred to in sub-section (7) of Section 158BA shall be charged on the total income determined in the manner specified in sub-section (1) as reduced by the total income referred to in clause (*ii*), clause (*iii*) and clause (*iv*) of sub-section (1)."

13. Omitted sub-section (6) by Finance Act, 2025 (No.7 of 2025), with retrospective effect from 01.09.2024, which stood thus:

"(6) For the purposes of sub-section (1) and sub-section (5), if the disclosed income under clause (*i*) of sub-section (1) or where the income disclosed in respect of any previous year comprising the block period, or the returned income or assessed income under clause (*ii*) or clause (*iii*) of sub-section (1) or where the income as determined under clause (*iv*), is a loss, it shall be ignored. "

14. The term "Financial Year" has been defined in Section 2(21) of the General Clauses Act, 1897 to mean "the year commencing on the first day of April".
15. "3. The first contention is based on an assumption that the word "any one" in Section 76 means only "one of the directors, and only one of the shareholders". This question as regards the interpretation of the word "any one" in Section 76 was raised in Criminal Appeals Nos. 98 to 106 of 1959 (Chief Inspector of Mines, etc.) and it has been decided there that the word "any one" should be interpreted there as "everyone". Thus under Section 76 every one of the shareholders of a private company owning the mine, and every one of the directors of a public company owning the mine is liable to prosecution. No question of violation of Article 14 therefore arises. "
16. "70. Perusal of the opinion of the Full Bench in B.R. Gupta-I [Balak Ram Gupta Vrs. Union of India, AIR 1987 Del 239] would clearly indicate with regard to interpretation of the word "any" in Explanation 1 to the first proviso to Section 6 of the Act which expands the scope of stay order granted in one case of landowners to be automatically extended to all those landowners, whose lands are covered under the notifications issued under Section 4 of the Act, irrespective of the fact whether there was any separate order of stay or not as regards their lands. The logic assigned by the Full Bench, the relevant portions whereof have been reproduced hereinabove, appear to be reasonable, apt, legal and proper."