IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'D' BENCH, NEW DELHI

BEFORE MS. MADHUMITA ROY, JUDICIAL MEMBER, AND SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

ITA No. 923/DEL/2024 [A.Y. 2015-16]

Shri Amit Behal C/o Devinder Singh Sethi Flat No. Q-11, Prasad Nagar Phase – 2, MIG Flats, New Delhi	Vs.	The A.C.I.T Circle – 1(1)(2) International Taxation Delhi
PAN – ASFPB 4216 N		
(Applicant)		(Respondent)

Assessee By : Shri Tushar Hemani, Sr. Adv

Department By : Shri Vizay B. Vasanta, CIT-DR

Date of Hearing : 23.04.2025
Date of Pronouncement : 18.07.2025

ORDER

PER NAVEEN CHANDRA, A.M:-

This appeal by the assessee is preferred against the order of ACIT, Cir. Int.Tax 1(1)(2) dated 19.01.2024 for A.Y 2015-16.

2. The grounds raised by the assessee read as under:

" 1.01 On the facts and in the circumstances of your appellant's case and in law, the order passed by ld. AO is bad-in-law in as

much as the proceedings initiated are in gross violation of provisions of Sections 148 and 149 of the Act.

1.02 On the facts and in the circumstances of your appellant's case and in law, the order passed by ld. AO is bad-in-law as the Id. AO, while passing the order, travelled beyond the directions issued by Hon'ble DRP vide its order dated 29.11.2023.

1.03 Your appellant, therefore, prays before your Honour to hold so now and quash the order passed by Id. AO.

WITHOUT PREJUDICE TO ABOVE:

2.00 ADDITION OF RS. 1,33,51,654/- AS UNEXPLAINED INVESTMENT U/S 69 OF THE ACT:

2.01 On the facts and circumstances of case and in law, the Id. AO grossly erred in making addition of the sum, as unexplained investment u/s 69 of the Act, which was never invested by your appellant during the year.

2.02 Your appellant prays that your Honor be pleased to hold so now and direct the Id. AO to delete the addition made on this account.

3.00 DECISIONS BRUSH ASIDE:

3.01 On the facts and circumstances of your appellant's case and in law, the ld. AO erred in making addition without providing valid justification against the cases relied upon by your appellant.

3.02 Your appellant further states that the decision relied by ld. AO are not relevant to facts of the case due to fact that in the case law relied funds were brought in India by proper banking channel but in your appellants case the funds are brought in India

by a wire transfer and therefore facts of both the cases are different.

3.03 Your appellant prays before your Honour to hold so now and quash the assessment order.

4.00 Your appellant craves leave to add, to amend and / or alter the above referred grounds."

3. Brief facts of the case are that the assessee is an NRI and residing in UAE. On the basis of information of investment of Rs. 53,58,690/- in immovable property, the assessee case was reopened u/s 148. In the course of re-assessment, the AO found that during the year in consideration assessee has purchased two immovable properties one in Oasis Build Home managed by Godrej Oasis Landmark for the consideration of Rs. 1,25,33,750/- and other in Emaar Manufacturing Ltd for Rs. 79,65,938/- totaling to Rs 2,04,99,688/-. As the assessee could not furnish evidence that the investment for aforesaid properties were made from his NRE account, proposed to treat the investment of Rs 2,04,99,688/- in immovable property as unexplained investment u/s 69A r.w.s 115BBE. On the direction of DRP, the AO further verified the credit entries in the Bank of Baroda NRE account with corresponding debit/credit entries in the salary account and active saver account of the assessee with the wire transfer details. On verification of the foreign bank account statement, wire transfer receipts for funds transferred

from foreign Bank to assessee's NRE account in India, the AO was satisfied with the source of the payment of Rs 71,48,034/-. The AO however, assessee was not satisfied in respect of source of rest of the payment of Rs 1,33,51,654/- which he finally added u/s 69A r.w.s. 115BBE as unexplained source of payment for purchase of immovable properties for A.Y 2015-16.

4. Aggrieved, the assessee is now before us. At the very outset, the ld. counsel for the assessee attacked the assessment order on two grounds: firstly, on jurisdictional ground that notice u/s 148 and order u/s 148A(d) was issued by JAO, whereas it should have been issued by FAO under the new Faceless scheme of 2022. The ld. counsel for the assessee relied upon the following case laws:

- Hexaware Technologies Ltd v ACIT - (2024) 464 ITR 430 (Bom);
- DCIT v. Amcor Flexibles India P. Ltd. - ITA 3842/Mum/2024;
- Pravina Jagdish Patel v ITO-(2024) 164 taxmann.com 659 (Bom);
- Jasjit Singh v UOI-(2024) 165 taxmann.com 114 (P&

5. Secondly, the ld AR attacked the order u/s 148A(d) as vague, scanty and non-specific and that the reopening is merely based on borrowed satisfaction. The ld AR relied on

➤ Signature Hotels P. Ltd. vs. ITO – (2012) 338 ITR 51 (Delhi);
➤ Harikishan S. Virmani vs DCIT– (2017) 394 ITR 146 (Guj);
➤ Paresh Babubhai Bhalani vs. ITO – SCA 922 of 2022 and Ors. (Guj);

6. The ld AR further argued that the "Jurisdictional facts", based on which AO has assumed jurisdiction under section 147 of the Act, are "incorrect" as no property has been sold by the assessee during the year in question; there are no deposits in bank a/c on account of sale of property; even no addition has been made on account of sale of property. The ld AR relied on:

➤ Kolahai Infotech Pvt. Ltd. vs. ITO – 409 ITR 595 (Delhi);
➤ Mumtaz Haji Mohmad Memon vs. ITO – 408 ITR 268 (Gujarat);
➤ Manishkumar P. Kiri vs. ACIT – SCA 15475 of 2015 (Guj);

7. The ld AR further pointed out that the reopening is not justified in the eyes of law as the reasons recorded by the Assessing Officer for reopening the assessment u/s 148A(d) of the Act, has given incorrect facts and there is no identification of the property involved. The ld. counsel for the assessee further submitted that the assumption of jurisdiction in this case is not valid as information received by the Assessing Officer has not been independently verified.

8. On merits, the ld AR stated that the investments in question have been made from ‘NRE a/c' and 'source thereof is 'beyond the reach of

the income-tax authorities and placed reliance on the following decisions:

Nitin Mavji Vekariya vs. ITO-SCA 7636 of 2022 (Gujarat).
Anilkumar Rambhai Patel vs. ITO-SCA 9497 of 2024 (Gujarat);
Bhavesh Chandrakant Bhatt vs. ACIT - SCA 8240 of 2024 (Gujarat);

9. The ld AR further stated that the said two properties namely Godrej Oasis Landmark was purchased vide Deed dated 28.09.2021 while Emaar Manufacturing Land Limited was purchased vide Deed dated 11.09.2018. The Investment in the said properties were made in “installment” as per decided stages. During AY 2015-16, actual investment was only Rs.49,04,988/-; the payment made to "Godrej Oasis Landmark" was Rs 37,04,988/- and Payment" made to "Emaar Manufacturing Land Limited" was Rs.12,34,860/-. The ld AR further submits that the AO himself has accepted that credits aggregating to Rs.71,48,034' in NRE a/c stand explained and once AO has accepted source of credits to the tune of Rs.71,48,034/- in the NRE a/c, "investment to the tune of Rs.49,04,988/-" from "same NRE a/c" duly stands explained. Reliance is also placed on "***Alan Moses Mozes vs. ITO*** (2024) 166 taxmann.com 346 (Ahmedabad)".

10. The ld. DR relied upon the findings of the authorities below.

11. We have heard the rival submissions and have perused the relevant material on record. On the jurisdictional ground that FAO should have issued notice u/s 148 and order u/s 148A(d), we find that the issue is squarely covered against the assessee by the decision of hon'ble jurisdictional High Court of Delhi in the case of ***T.K.S. Builders Pvt. Ltd. vs Income Tax Officer Ward 25(3) New Delhi*** in W.P.(C) 1968/2023 dated 28 October, 2024 wherein it held as under:

> *"99. Returning then to the Faceless Reassessment Scheme 2022 itself, we find sufficient merit in the interpretation of its clauses as has been commended for our consideration by the respondents. Clause 3 of the said scheme provides that assessment, reassessment or recomputation under Section 147 of the Act as well as issuance of notice under Section 148 would be through automated allocation in accordance with the risk management strategy and in a faceless manner. The respondents rightly draw our attention to the usage of punctuation at various places in Clause 3. A careful reading of that clause shows that the draftsman has used a comma immediately after the phrase "shall be through automated allocation". Yet another comma appears after the phrase "for issuance of notice". It thus appears to have been the clear intent of the author to separate and segregate the phases of initiation of action in accordance with RMS, the formation of opinion whether circumstances warrant action under Section 148 of the Act being undertaken by issuance of notice and the actual undertaking of assessment itself.*
>
> *100. Beyond the specific use of punctuation within Clause 3, a comprehensive reading of the Faceless Reassessment Scheme 2022, supported by the extensive material presented by the respondents, bolsters the clear intent underlying each phase of the faceless assessment process.*

101. As we had noticed in the preceding parts of this decision, the RMS and the Insight Portal pushes information to the JAO and is principally not concerned with faceless assessment at all. The RMS essentially enables the JAO to firstly examine the veracity of disclosures made and examine the return against various parameters and information which has been collated by the Directorate of Systems. It thus provides the JAO with an insight in respect of various transactions to which the assessee may be connected as well as data pertaining to that assessee which has otherwise been aggregated and mapped on the basis of material existing on the system of the respondents. The respondents would, therefore, appear to be correct in their submission that when material comes to be placed in the hands of the JAO by the RMS, it would consequently be entitled to initiate the process of reassessment by following the procedure prescribed under Section 148A. If after consideration of the objections that are preferred, it stands firm in its opinion that income was likely to have escaped assessment, it would transmit the relevant record to the NFAC. It is at that stage and on receipt of the said material by NFAC that the concepts of automated allocation and faceless distribution would come into play. The actual assessment would thus be conducted in a faceless manner and in accordance with an allocation that the NFAC would make. This, in our considered opinion, would be the only legally sustainable construction liable to be accorded to the scheme. Our conclusion would thus strike a harmonious balance between the evaluation of information made available to an AO, the preliminary consideration of information for the purposes of formation of opinion and its ultimate assessment in a faceless manner.

*102. **We are also, in this regard, guided by the principles of beneficial construction and thus avoiding an interpretation that would render portions of the Act or the Faceless Assessment Scheme superfluous or ineffective should be avoided. To assert that the JAO's powers become redundant under the faceless assessment framework would conflict with beneficial construction, as it would undermine provisions specifically established to support comprehensive data analysis and informed decision-making, such as the JAO's access to RMS and Insight Portal information.***

103. We are fully cognizant of the contrarian view which was expressed in this respect in Hexaware Technologies and which stands reflected in para 36 of the report which has been extracted hereinabove. However, for reasons assigned in the preceding parts of this decision, we find ourselves unable to concur with the interpretation accorded by the Bombay High Court upon Clause 3 of the Faceless Reassessment Scheme 2022. As was noted by us earlier, Clause 3 clearly contemplates the initial enquiry and formation of opinion to reassess being part of one defined process followed by actual assessment in a faceless manner. It thus divides the process of reassessment into two stages and when viewed in that light it is manifest that it strikes a just balance between the obligation of the JAO to scrutinise information and the conduct of assessment itself through a faceless allocation. The distribution of functions between the JAO and NFAC is complimentary and concurrent as contemplated under the various schemes and the statutory provisions. This balanced distribution underscores the legislative intent to create a seamless integration of traditional and faceless assessment mechanisms within a unified statutory framework. This we so hold and observe since we have, principally, been unable to countenance a situation where the JAO stands completely deprived of the jurisdiction to evaluate data and material that may be placed in its hands.

J. DISPOSITION

104. We, accordingly and for all the aforesaid reasons find ourselves unable to sustain the challenge as addressed. The contention that the impugned notices are liable be quashed merely on the ground of the same having been issued by the JAO is thus negated.

105. Accordingly, while we dismiss these writ petitions, we clarify that any other objection that the petitioners may have to the initiation of reassessment proceedings would be open to be addressed in independent proceedings.

Respectfully following the hon'ble Delhi High Court, we hold that the JAO was completely and legally justified under the new Faceless Scheme to pass order u/s 148A(d) and issue notice u/s 148.

12. With respect to the other objections, we find that in the instant case, the JAO has initiated the process of re-assessment under the new amended law of section 148 and 148A. Under the amended provision, the concept of 'reason to believe', and 'borrowed satisfaction' has been replaced with 'information' from RMS which suggest escapement of income above Rs 50 lakh. In the instant case, the JAO had in his possession an 'information' regarding high value transactions of investment of Rs. 53,58,690/- in immovable property undertaken by the assessee and non-filing of return, from risk management strategy (RMS) formulated by the Board.

13. We further find that the JAO verified from the e-filing portal regarding status of return filed and found that neither any return was filed nor any assessment has been made. The JAO issued notice u/s 148A(b) to the assessee enquiring the justification for the above financial transaction. The assessee sought time which was allowed and on account of non-receipt of further response, the JAO passed order u/s 148A(d) and issued notice u/s 148 after taking approval of PCIT. We are

therefore of the considered view that the JAO action for initiating action under the amended section 148 is legally valid and fulfills the provision of re-assessment. The case laws relied upon by the assessee pertain to the unamended provisions of section 148 and hence not applicable. The ground 1 is accordingly dismissed.

14. On merits, we find that the assessee is a Non-Resident and residing in UAE. The assessee has purchased two immovable properties in India; one in Oasis Build Home managed by Godrej Oasis Landmark vide Deed dated 28.09.2021 for the consideration of Rs. 1,25,33,750/- and another purchased from Emaar Manufacturing Land Limited vide Deed dated 11.09.2018 for Rs. 79,65,938/-. The payment for the same were made in installments as per decided stages according to construction completion. We further find that during AY 2015-16, the actual investment for the aforesaid properties is of Rs.49,04,988/- only out of total investment of Rs 2,04,99,688/-; payment made to "Godrej Oasis Landmark" of Rs 37,04,988/- and payment" made to "Emaar Manufacturing Land Limited" of Rs.12,34,860/-.

15. We also find that the AO, on verification of the foreign bank account statement, wire transfer receipts for funds transferred from foreign Bank to assessee's NRE account in India, was satisfied with the

source of the payment upto Rs 71,48,034/-. Since the total investment made is of Rs 49,04,988/- only in AY 2015-16, We are therefore inclined to agree with the submission of the assessee that the said investment in the aforesaid two properties stands explained from the credits aggregating to Rs.71,48,034/- in NRE a/c. The ground 2 and 3 is therefore allowed.

16. In the result, the appeal of the assessee in ITA No. 923/DEL/2024 is partly allowed.

The order is pronounced in the open court on 18.07.2025.

Sd/-	**Sd/-**
[MADHUMITA ROY] **JUDICIAL MEMBER**	**[NAVEEN CHANDRA]** **ACCOUNTANT MEMBER**

Dated: 18th July, 2025.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Sl No.	PARTICULARS	DATES
1.	*Date of dictation of Tribunal Order*	.
2.	*Date on which the typed draft Tribunal Order is placed before the Dictation Member*	
3.	*Date on which the typed draft Tribunal Order is placed before the other Member*	
4.	*Date on which the approved draft Tribunal Order comes to the Sr. P.S./P.S.*	
5.	*Date on which the fair Tribunal Order is placed before the Dictating Member for pronouncement*	
6.	*Date on which the signed order comes back to the Sr. P.S./P.S*	
7.	*Date on which the final Tribunal Order is uploaded by the Sr. P.S./P.S. on official website*	
8.	*Date on which the file goes to the Bench Clerk alongwith Tribunal Order*	
9.	*Date of killing off the disposed of files on the judiSIS portal of ITAT by the Bench Clerks*	
10.	*Date on which the file goes to the Supervisor (Judicial)*	
11.	*The date on which the file goes for xerox*	
12.	*The date on which the file goes for endorsement*	
13.	*The date on which the file goes to the Superintendent for checking*	
14.	*The date on which the file goes to the Assistant Registrar for signature on the Tribunal order*	
15.	*Date on which the file goes to the dispatch section*	
16.	*Date of Dispatch of the Order*	