

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH: CHENNAI

माननीय श्री मनु कुमार गिरि ,न्यायिक सदस्य एवं माननीय श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष
BEFORE HON'BLE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
HON'BLE SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1813/Chny/2025
Assessment Years: - 2018-19

Arulmigu Lakshmi Narasimha Swamy
Thirukoil, Sholinghur, Walaja Taluka,
Vellure,
Tamil Nadu – 631 102.
[PAN: AAFTA1233N]

Income Tax Officer,
Exemptions Ward-1,
Chennai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Assessee by

: Ms. Sonali, Advocate

प्रत्यर्थी की ओर से /Revenue by

: Shri ARV Sreenivasan, CIT

सुनवाई की तारीख/Date of Hearing

: 25.08.2025

घोषणा की तारीख /Date of Pronouncement

: 25.08.2025

आदेश / O R D E R

PER AMITABH SHUKLA, A.M. :

This appeal is filed by the assessee against the order bearing DIN & Order No.ITBA / NFAC / S / 250 / 2024-25 / 1066140825(1) dated 27.06.2024 of the Learned Commissioner of Income Tax [herein after "CIT(A), National Faceless Appeal Center[NFAC], Delhi, for the assessment year 2018-19. The reference to the word "Act" in this order

hereinafter shall mean the Income Tax Act, 1961 as amended from time to time.

2.0 It has been noted that there is a delay of 297 days in the case, in filing of this appeal before the tribunal. In its affidavit the assessee trust has pleaded that the predecessor of the executive officer was not conversant with Income Tax Proceedings and that she was not aware of appellate being uploaded on the portal. It was only during the recovery proceedings that the present incumbent executive officer noted of the passing of the order. All these activities contributed to the delay which was neither willful nor wanton. The assessee submitted that there will not be case of any non-compliance now. We have considered the justification put forth by the assessee and we are satisfied with their adequacy. We are also conscious of the fact that no litigant gains by intentionally delaying its own matters. The Ld. DR did not pose any serious objections to the delay except that cost be imposed for wasting the precious time of the courts. Accordingly, we hereby condone the delay and proceed to adjudicate this appeal.

3.0 At the outset, the Ld.Counsel for the assessee submitted that it has challenged the assessment on account of invalidity of notice under section 148. Thus, through ground of appeal No.5 the assessee has challenged the insufficiency of jurisdiction with the Ld.Jurisdictional Assessing Officer to have issued the notice u/s 148 which forms the basis

for the reassessment order u/s. 147 r.w.s. 144 dated 21.02.2023. It is the case of the Ld.Counsel for the assessee that as per section 151A of the Act r.w. notification dated 29.03.2022 of Central Board of Direct Taxes, reassessment notice u/s 148 was to be issued by the faceless assessing officer and that issuance of the same by the jurisdictional assessing officer u/s 148 dated 31.03.2022 was unwarranted and not in conformity with statutory conditions governing the matter. It was urged that consequent to notification dated 29th March 2022 issued by the Central Board of Direct Taxes, reassessment u/s 148 can be issued by a faceless assessing officer only. It was urged that in the present case as the notice u/s 148 dated 31.03.2022 was issued by the jurisdictional assessing officer the same was invalid and consequently the assessment order u/s 147 r.w.s. 144 dated 27.03.2023 also became an order to be deemed as void ab initio. In support of its contentions, the Ld.Counsel for the assessee placed heavy reliance upon the decision of the Hon'ble Madras High Court dated 24.06.2025 in the batch of writ petitions bearing no.22402 of 2024.

4.0 Per contra, the Ld.DR relied upon the order of lower authorities. It was argued that the decision of Hon'ble Bombay High Court in the case of Hexaware Technologies Limited which is the basis of impugned decision of the Hon'ble Madras High Court dated 24.06.2025 (supra) has

been contested by the Revenue before the Hon'ble Apex Court and hence no reliance can be placed.

5.0 We have heard rival submissions in the light of material available on records. It is an admitted fact on records that the notice u/s. 148 dated 31.03.2022, upon which the assessment order u/s 147 r.w.s. 144 dated 21.01.2023 is resting, was issued by the jurisdictional assessing officer and not the faceless assessing officer. We have noted the following provisions of section 151A of the Act:-

“.....[**Faceless assessment of income escaping assessment.**]⁹⁷

151A. (1) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of assessment, reassessment or re-computation under section 147 or issuance of notice under section 148⁹⁸[or conducting of enquiries or issuance of show-cause notice or passing of order under section 148A] or sanction for issue of such notice under section 151, so as to impart greater efficiency, transparency and accountability by-

- (a) eliminating the interface between the income-tax authority and the assessee or any other person to the extent technologically feasible;
- (b) optimising utilisation of the resources through economies of scale and functional specialisation;
- (c) introducing a team-based assessment, reassessment, re-computation or issuance or sanction of notice with dynamic jurisdiction.

(2) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (1), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2022.

(3) Every notification issued under sub-section (1) and sub-section (2) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.]....”

The legal prescription thus mandated is that post issuance of notification by the central government, notices u/s. 148 shall be issued by faceless assessing officers.

6.0 We have noted that the Central Board of Direct Taxes has passed a notification dated 29.03.2022 stipulating as under:-

“...NOTIFICATION
New Delhi, the 29th March, 2022

S.O. 1466(E).—*In exercise of the powers conferred by sub-sections (1) and (2) of section 151A of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby makes the following Scheme, namely:-*

1. Short title and commencement.—*(1) This Scheme may be called the e-Assessment of Income Escaping Assessment Scheme, 2022.*

(2) It shall come into force with effect from the date of its publication in the Official Gazette.

2. Definitions.—*(1) In this Scheme, unless the context otherwise requires, —*

(a) —Act means the Income-tax Act, 1961 (43 of 1961);

(b) —automated allocation means an algorithm for randomised allocation of cases, by using suitable technological tools, including artificial intelligence and machine learning, with a view to optimise the use of resources.

(2) Words and expressions used herein and not defined, but defined in the Act, shall have the meaning respectively assigned to them in the Act.

3. Scope of the Scheme.—*For the purpose of this Scheme,—*

(a) assessment, reassessment or recomputation under section 147 of the Act,

(b) issuance of notice under section 148 of the Act,

shall be through automated allocation, in accordance with risk management strategy formulated by the Board as referred to in section 148 of the Act for issuance of notice, and in a faceless manner, to the extent provided in section 144B of the Act with reference to making assessment or reassessment of total income or loss of assessee.

*[Notification No. 18/2022/F. No. 370142/16/2022-TPL(Part1)
SHEFALI SINGH, Under Secy....”*

Thus through the above notification the Central Government has mandated that w.e.f. 29th March 2022 all the notices u/s 148 of the Act shall be through automated allocation and in a faceless manner for initiating any reassessment of income. It thus alludes that notice u/s 148 shall be issued by a faceless assessing officer.

7.0 We have also noted the decision of Hon’ble Bombay High

court in the case of Hexaware Technologies Limited dated 03.05.2024 in WP No.1778 of 2023. The Hon'ble court's decision was , inter alia, based on the newly introduced faceless assessment scheme, established under Section 151A of the Act which mandated that reassessment notices be issued through automated allocation and in a faceless manner, thereby eliminating direct interaction between the taxpayer and the tax authorities. The court interpreted this to mean that the authority to issue reassessment notices under the faceless assessment scheme rests solely with the FAO, not the JAO. The Hon'ble Bombay High Court held the view that allowing concurrent jurisdiction would lead to chaos and undermine the purpose of the faceless assessment scheme. It clarified that the scheme's automated allocation process randomly assigns cases to assessing officers, and in this case, the JAO was not the designated officer. Therefore, the reassessment notice issued by the JAO was deemed invalid and quashed. The Revenue had argued that both the Jurisdictional Assessing Officer (JAO) and the Faceless Assessing Officer (FAO) had concurrent jurisdiction in issuing such notices. However, the Hon'ble Bombay High Court disagreed, ruling that the JAO lacked the authority to issue the

reassessment notice in this specific instance. While doing so the Hon'ble High Court had distinguished the order of the Hon'ble Calcutta High Court.

8.0 We have also noted with reverence the decision of Hon'ble Madras High Court dated 24.06.2025 in WP No.22402. In the impugned decision the Hon'ble High Court has held as under:-

*“.....2. Learned Single Judge in order dated 20.12.2024 in WP Nos.25223 of 2024 held that it does not matter if the Jurisdictional Assessing Officer (JAO) issues the notice and it is not mandatory that it should be issued by the Faceless Assessment Officer (FAO). Another learned Single Judge in order dated 21.04.2025 in WP No.22402 of 2024 and batch cases, followed what was held by the Bombay High Court in **Hexaware Technologies Ltd vs. Assistant Commissioner of Income Tax**¹; and opined that it was mandatory for the FAO to issue notice and issuance of notice by JAO would make the notice invalid.*

3. Learned Single Judge thereafter directed the matter to be placed before the Chief Justice for constituting a Division Bench to consider the divergent views. It is, therefore, all these matters were listed before us today.

4. We follow the law as laid down in Hexaware Technologies Ltd (supra), the said judgment was authored by one of us (Chief Justice), that it is mandatory for the FAO to issue the concerned notices and issuance thereof by the JAO would make the notice invalid.

5. Counsels for assesseees are ad idem that the law as laid down in Hexaware Technologies Ltd (supra) will apply. Learned Additional Solicitor-General, however, submits that the Revenue does not accept the law as laid down in Hexaware Technologies Ltd (supra); and that there is a special leave petition filed against the order and judgment in Hexaware Technologies Ltd (supra) and the same is expected to be taken up after the Supreme Court reopens.

6. Admittedly, learned Additional Solicitor-General, in fairness, states that there is no stay. Therefore, the law as laid down by Hexaware Technologies Ltd (supra) applies.

7. It is clarified that if the Apex Court reverses the judgment of Hexaware Technologies Ltd (supra), parties will be governed by the decision of the Apex Court.

8. Keeping open all rights and contentions of parties, including liberty to apply to this Court, in case the Revenue succeeds before the Apex Court, for revival of these petitions, the notices issued in these petitions are quashed and set aside.....”

9.0 It is seen that the Hon'ble Madras High Court has through its aforesaid order reaffirmed the decision of Hon'ble Bombay High Court in the case of Hexaware Technologies Limited ruling that post 29.03.2022 i.e after issuance of CBDT notification, notices u/s 148 deserved to be issued by faceless assessing officer only. It goes on to indicate that any notices issued by any jurisdictional assessing officer shall be invalid. Consequently, any assessment order which is resting on any such notice shall also be invalid and void ab initio. We have noted that in the present case the notice u/s 148 was issued on 31.03.2022 by the jurisdictional assessing officer and that the assessment order u/s 147 dated 21.02.2023 is resting upon the same. In respectful compliance to the decision of the Hon'ble Madras High Court (supra) it is held that notice u/s 148 issued on 31.03.2022 by the jurisdictional assessing officer is an invalid notice and same is therefore quashed. It is trite law that once foundation goes the superstructure is bound to collapse. Accordingly, in the present case the assessment order u/s 147 dated 27.03.2022 shall also not survive. We therefore set aside the order of the lower authorities. The legal ground of appeal no. 5 raised by the assessee are therefore allowed.

10.0 We have however also noted that the Hon'ble Madras High Court in their impugned decision , in para 7 ruled that “..... It is clarified that if the Apex Court reverses the judgment of Hexaware Technologies Ltd (supra), parties will be governed by the decision of the Apex Court....” and therefore this order is also subject to the decision of Hon'ble Apex court in response to revenue's appeal in the case of Hexaware Technologies (supra) .

11.0 As the assessee has succeeded in terms of its legal grounds of appeal No. 5, all other grounds of appeal contesting the merits of the addition have become academic in nature and hence not adjudicated.

12.0 In the result, the appeal of the assessee is allowed.

Order pronounced on 25th , Aug-2025 at Chennai.

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य / Judicial Member

चेन्नई/Chennai, दिनांक/Dated: 25th , Aug-2025.

KB/-

Sd/-

(अमिताभ शुक्ला)

(AMITABH SHUKLA)

लेखा सदस्य /Accountant Member

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT - Chennai/Coimbatore/Madurai/Salem.
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF