

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1157/Chny/2025
निर्धारण वर्ष/Assessment Year: 2018-19

The Chennai Co-op. Societies – Employees Co-op. T & C - Society Ltd., No X 158, No.7 & 8, II Floor, Davidson Street, Chennai-600 001	v.	The PCIT-8, Chennai.
[PAN: AADAT 9673 Q]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr.B. Suresh, CA
प्रत्यर्थी की ओर से /Respondent by	:	Mr.Bipin C.N., CIT
सुनवाईकीतारीख/Date of Hearing	:	08.07.2025
घोषणाकीतारीख /Date of Pronouncement	:	18.09.2025

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee Society against the order of the Learned Principal Commissioner of Income Tax, (hereinafter referred to as "the Ld.PCIT"), Chennai-8, dated 20.03.2025 for the Assessment Year (hereinafter referred to as "AY") 2018-19 u/s.263 of the Income Tax Act, 1961 (hereinafter referred to as "the Act").



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2. At the outset, the Ld.AR of the assessee has brought to our notice that he has filed an additional ground of appeal which is reproduced as under:

14. That the Hon. Madras High Court in the recent decision dt. 24-06-2025 has held that reopening notice issued by JAO is unlawful. Hence the subsequent assessment also becomes unlawful. Ld. PCIT lacks Jurisdiction to intervene u/s. 263 on such unlawful assessment order.

3. The Ld.DR opposed admitting of the aforesaid additional ground. However, we note that this is purely a legal issue and adjudication of the said ground doesn't require any fresh investigation into the facts and the same is essentially a question of law. Therefore, we admit the additional ground by relying on the decision of the Hon'ble Supreme Court in the case of NTPC Ltd. v. CIT reported in [1998] 229 ITR 383 (SC).

4. By preferring additional Ground No.14 (supra) the assessee has raised the legal issue challenging the invocation of revisional jurisdiction u/s. 263 of the Act, by Ld PCIT without satisfying the essential pre-conditions as stipulated in section 263 of the Act. Explaining this ground, the Ld. AR submitted that the Ld. Pr. CIT has interdicted the order of the AO passed u/s. 144B/147 of the Act dated 09.03.2023 which order itself was bad in the eyes of law rendering it a nullity. Explaining further on this contention as to how the order of AO u/s.144B/147 dated 09.03.2023 which has been interdicted by the Ld. PCIT u/s.263 of the Act is bad in law, the Ld.AR pointed out that the Jurisdictional Assessing Officer (JAO)



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had reopened the original assessment for AY 2018-19 by issuing notice u/s.148 of the Act on 30.03.2022 without adhering to the binding provisions of Sec.151A read with CBDT Scheme Notification No.18/2022/F.No.370142/16/2022-TPL dated 29.03.2022.

5. According to Ld. A.R., when the very reopening of the assessment by the AO for the assessment year 2018-19 was invalid for want of jurisdiction and it is a nullity, therefore, this invalid order of AO which could not have been interdicted by the Ld. Pr. CIT invoking revisional jurisdiction u/s 263 and passing the impugned order dated 20.03.2025, which also is a null in eyes of law. In other words, since the re-assessment order of AO dated 09.03.2023 is non-est in the eyes of law, the Ld. PCIT couldn't have interdicted a non-est order, so the impugned order of Ld. PCIT is also a nullity or non-est in the eyes of law.

6. Per contra, the Ld. CIT, DR vehemently opposed the contention of the Ld. AR, submitted that if the AO's reopening proceedings was bad in law it should have been challenged by the assessee before the First Appellate Authority and not in this proceedings which is emanating from the action of Ld. Pr. CIT u/s. 263 of the Act. According to Ld. CIT, DR, the assessee having kept quiet on the reassessment order of AO cannot be allowed to agitate in this proceedings about AO's action while assailing the action of Ld. PCIT. Further, according to Ld. CIT, DR, the action of the



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Ld.PCIT in finding the AO's action to be erroneous & prejudicial to the Revenue can't be faulted i.e. the Ld. Pr.CIT finding in the impugned order that the AO's omission not to have taken notice of assessee's omission of filing ITR u/s.139(1) of the Act, the claim u/s.80P of the Act is hit by Section 80AC and therefore, the claim u/s.80P of the Act needs to be disallowed (₹1,48,80,278-) & consequently brought to tax. So, he rightly interfered with the assessment order passed on 09.03.2023, which doesn't call for any interference from our side.

7. In his rejoinder, the Ld. AR submitted that the assessee has raised the legal issue which assessee is entitled to do because it is settled law that the jurisdiction can be challenged at any stage/proceedings and even that it can be raised before the Hon'ble Apex Court for the first time. And according to Ld. A.R, in this case, the primary proceedings is the AO's action of re-opening the assessment by issuance of notice u/s.148 of the Act which was an action taken by the JAO, who didn't had the jurisdiction to issue notice after 29.03.2022 (supra), thereby, invalidating the assessment order passed u/s 147 on 09.03.2023. Hence, such an illegal action of the AO can be challenged in collateral proceedings u/s 263 of the Act as held by the Tribunal in a host of decisions wherein several decisions of the Hon'ble Supreme Court has been cited. The Ld AR referred to the following decision of this Tribunal is noted as under:



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a) Supersonic Technologies (P) Ltd. vs. PCIT in ITA No. 2269/D/2017 dated 10.12.2018 (ITAT, Delhi Bench) ITA. No.3009 to 3012/DEL/2017

"6.1.....It is well settled Law that assessee can challenge the validity of the reassessment proceedings in the collateral proceedings (relating to examination of validity of Order passed) under section 263 of the I.T. Act. We rely upon the Order of ITAT, Mumbai Bench in the case of Westlife Development Ltd., vs. PCIT 49 ITR (Tribu.) 406 in which it was held "allowing the appeal (i) that jurisdiction aspect of the Order passed in the primary proceedings can be examined in collateral proceedings also. Thus, the assessee could be permitted to challenge the validity of the Order passed under section 263 on the ground that the assessment order was non-est." Since the reassessment order itself is bad in law, therefore, Learned Counsel for the Assessee, rightly contended that the same cannot be revised under section 263 of the I.T. Act. Only valid re-assessment order can be revised under section 263 of the I.T. Act. On this ground itself the proceedings under section 263 of the I.T. Act are bad in law and liable to be quashed. We, accordingly, set aside the Order of Ld. Pr. CIT passed under section 263 of the I.T. Act and quash the same."

b) M/s Charbhujamarmo (India) (P) Ltd. vs. PCIT in ITA No. 4749/D/2019 dated 31.12.2019 (ITAT, Delhi)

"6. We have considered the rival submissions. It is well settled Law that since reassessment proceedings are invalid and bad in law, therefore, such proceedings could not be revised under section 263 of the I.T. Act. It is also well settled Law that validity of the reassessment proceedings are to be judged on the basis of the reasons recorded for reopening of the assessment."

He further placed reliance upon the following decision: -

c) M/s Westlife Development Ltd. vs. PCIT in ITA No. 688/Mum/2016 dated 24.06.2016 (ITAT, Mumbai)

d) Krishna Kumar Saraf vs. CIT in ITA No. 4562/Del/2011 dated 24.09.2015 (ITAT, Delhi)

e) M/s Classic Flour & Food Processing (P) Ltd. vs. CIT in ITA No. 764 to 766/Kol/2014 dated 05.04.2017 (ITAT, Kolkata)"

In the light of the aforesaid averments, and other decisions discussed infra, the Ld AR wants us to adjudicate this legal issue.

8. Having heard both parties, the first aspect which needs to be examined is as to whether the assessee is entitled to challenge the



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validity of initiation of proceedings by AO u/s 147 of the Act in the present appeal in which he has challenged the validity of order passed by Ld PCIT u/s 263 of the Act. The Ld. Counsel for the assessee submitted before us that it is open to an assessee in an appeal against the order u/s. 263 of the Act which seeks to revise an order passed u/s 147 of the Act, to challenge the validity of the order passed u/s.147 of the Act as well as initiation of proceedings u/s.147 of the Act. In this regard other than the case laws cited supra, the Ld. Counsel for the assessee placed before us two decisions one rendered by Lucknow Bench of ITAT in the case of Inder Kumar Bachani (HUF) vs ITO 99 ITD 621 (Luck) and ITAT Mumbai ` G ` Bench in the case of M/s. Westlife Development Ltd. Vs Principal C.I.T. in ITA NO.688/Mum/2016. In both the decisions a view has been taken by the Tribunal that when an Assessment order passed u/s 147 of the Act was without jurisdiction, the Ld. PCIT cannot invoke the jurisdiction u/s 263 of the Act against such void or non-est order. In the second decision cited, the Mumbai bench of the Tribunal has specifically framed the following questions :-

- “ 1. Whether the assessee can challenge the validity of an assessment order during the appellate proceedings pertaining to examination of validity of order passed u/s 263?
2. Whether the impugned assessment order passed u/s 143(3) dated 24-10-2013 was valid in the eyes of law or a nullity as has been claimed by the assessee?
3. If the impugned assessment order passed u/s 143(3) was illegal or nullity in the eyes of law, then, whether the CIT had a valid jurisdiction



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to pass the impugned order u/s.263 to revise the non est assessment order?"

9. On question no. 1 and 3 which is relevant to the present case the Mumbai bench of the Tribunal in the aforesaid case of M/s Westlife Development Ltd. (supra) has taken the view that when the original assessment proceedings are null and void in the eyes of law for want of assumption of jurisdiction, then such validity can be challenged even in collateral proceedings. We note that the Mumbai bench took the view that the proceedings before AO u/s.147 of the Act are primary proceedings and proceedings before Ld.PCIT u/s.263 of the Act are collateral proceedings and in such collateral proceedings, the validity of initiation of the re-opening u/s 147 of the Act can be challenged. The Mumbai bench of the Tribunal in this regard has placed reliance on several decisions, the main decision being that of the Hon'ble Supreme Court in the case of Kiran Singh & Ors. V. Chaman Paswan & Ors. [1955] 1 SCR 117 wherein the Hon'ble Supreme Court observed as follows :-

" It is a fundamental principle well-established that a decree passed by a Court without jurisdiction is a nullity, and that its invalidity could be set up whenever and wherever it is sought to be enforced or relied upon, even at the stage of execution and even in collateral proceedings. A defect of jurisdiction, whether it is pecuniary or territorial, or whether it is in respect of the subject-matter of the action, strikes at the very authority of the Court to pass any decree and such a defect cannot be cured even by consent of parties."

10. The Mumbai bench of this Tribunal made a reference to another decision of the Hon'ble Supreme Court in the case of Sushil Kumar Mehta v. Gobind Ram Bohra, (1990) 1 SCC 193 and the decisions in the case of



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Indian Bank v. Manilal Govindji Khona (2015) 3 SCC 712. The Mumbai bench also held that if order of assessment passed u/s 147 of the Act was nullity in the eyes of law then that order cannot be revised by invoking powers u/s 263 of the Act by CIT. The Mumbai Bench has in this regard placed reliance on the decision of Delhi bench of the Tribunal in the case of Krishna Kumar Saraf v. CIT in ITA NO.4562/Del/2007 order dated 24.09.2015 wherein it was held as follows :-

" 17. There is no quarrel with the proposition advanced by Id. DR that the proceedings u/s 263 are for the benefit of revenue and not for assessee.

18. However, u/s 263 the Id. Commissioner cannot revise a non est order in the eye of law. Since the assessment order was passed in pursuance to the notice U/S 143(2), which was beyond time, therefore, the assessment order passed in pursuance to the barred notice had no legs to stand as the same was non est in the eyes of law. All proceedings subsequent to the said notice are of no consequence. Further, the decision of Hon'ble Madras High Court in the case of CIT Vs. Gitsons Engineering Co. 370 ITR 87 (Mad) clearly holds that the objection in relation to non service of notice could be raised for the first time before the Tribunal as the same was legal, which went to the root of the matter.

19. While exercising powers u/s 263 Id. Commissioner cannot revise an assessment order which is non est in the eye of law because it would prejudice the right of assessee which has accrued in favour of assessee on account of its income being determined. If Id. Commissioner revises such an assessment order, then it would imply extending/ granting fresh limitation for passing fresh assessment order. It is settled law that by the action of the authorities the limitation cannot be extended. Because the provisions of limitation are provided in the same 20. In view of above discussion ground no.3 is allowed and revision order passed u/s 263 is quashed."

11. After having considered the judicial precedent on the issue we are of the view that the validity of the order passed by the AO which is being interdicted by the Ld. PCIT in the impugned order assailed before us, can be examined as to whether the AO had the requisite jurisdiction to re-open/re-assess the escaped income of the assessee. Therefore, in this



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case we need to examine the action of AO dated 09.03.2023 passed u/s.147 of the Act which action of AO depends upon the AO assuming validly the jurisdiction to pass an order of assessment u/s 147 of the Act. It is settled law that the AO can reopen the assessment only after issuing the statutory notice u/s.148 of the Act. After 29.03.2022, the CBDT has mandated the issuance of notice u/s.148 of the Act by the Faceless Assessing Officer (FAO) and not by the Jurisdictional Assessing Officer (JAO) unless it is spelled out in the notice that its case falls in the exception outlined in Para No.3 of the ibid circular which is not the undisputed position before us. Then in such an event it cannot be said the AO has validly assumed jurisdiction u/s 147 of the Act. Even if for any reason, the assessee had not challenged the validity of proceedings u/s.147 of the Act by filing appeal against the order framed u/s.147 of the Act, it can be challenged in the appeal against an order passed by the Ld. PCIT u/s 263 of the Act revising the invalid order u/s.147 of the Act. As noted this issue has been analyzed by the Mumbai Bench of the Tribunal in the case of M/s.Westlife Development Ltd. (supra) wherein the Tribunal has equated the reopening assessment u/s.147 to primary proceedings and the subsequent proceedings by Ld. PCIT u/s 263 passed to be collateral proceedings. In this order the Tribunal has taken note of several ratio's of the Hon'ble Supreme Court wherein the Hon'ble Supreme Court held that if the primary proceedings are non-est in law or void on the



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ground of lack of jurisdiction, then the validity of such proceedings can be challenged even in an appeal arising out of collateral proceedings. Since we have already set out the ratio/operating portions of these decisions we do not wish to repeat the same for the sake of brevity. In the light of the aforesaid discussion we are of the view that the invalidity of the primary proceedings for lack of jurisdiction can be challenged even in appellate proceedings arising out of a collateral proceeding. In view of the aforesaid legal position we will now examine the legal issue. For doing that first of all we have to examine whether the JAO in the present case, could have reopened the assessment of the assessee by issuance of notice dated 30.03.2022 u/s.148 of the Act (which ultimately resulted in FAO passing the assessment order dated 09.03.2023).

12. In the present case, we note that the JAO, Smt. Jayalakshmi M. Iyer, Non-Corporate Ward-11(1), Chennai, has issued statutory reopening notice u/s.148 of the Act on 30.03.2022 and thereafter reassessment order was passed by the Faceless Assessing Officer (FAO) by order dated 09.03.2023 which action we find is not in accordance with Sec.151/151A of the Act read with the faceless Scheme notified by CBDT on 29 March 2022 for assessment, reassessment or re-computation u/s.147/issuance of notice u/s.148 of the Act or for conducting of inquiry or issuance of show cause notice or passing of order u/s.148A of the Act or sanction for issuance of notice under section 151 of the Act. The CBDT, in exercise of



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the powers conferred u/s.151A of the Act, is noted to have issued the notification dated 29.03.2022 [after laying the same before each House of Parliament] and formulated a Scheme called "the e-Assessment of Income Escaping Assessment Scheme, 2022" (herein after 'the Scheme'). And that the Scheme provides that (a) the assessment, reassessment or re-computation u/s.147 of the Act and (b) the issuance of notice u/s.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. Therefore, the impugned notice u/s 148 dated 30.03.2022 is noted to have been issued by JAO and not by the NFAC, which action is in contravention of the provisions of the Act, thus violating the principles of Rule of Law, which vitiates the reopening of the assessment; as held by the jurisdictional High Court & other Hon'ble High Courts as noted infra:-

Sl.No.	Date	Citation
1	24.06.2025	Mark Studio India (P.) Ltd. v. Income-tax Officer - High Court of Madras [DB] - WA No. 781 OF 2025, order dated 24.06.2025
2	14.09.2023	Kankanala Ravindra Reddy v. Income-tax Officer High Court of Telangana - 156 taxmann.com 178
3	03.05.2024	Hexaware Technologies Ltd. v. Assistant Commissioner of Income-tax High Court of Bombay - 464 ITR 430
4	20.05.2024	Ram Narayan Sah v. Union of India - High Court of Gauhati 163 taxmann.com 478
5	02.07.2024	Sushila Sureshbabu Malge v. Income-tax Officer - High Court of Bombay - 468 ITR 624
6	19.07.2024	Jatinder Singh Bhangu v. Union of India High Court of Punjab & Haryana - 466 ITR 474
7	24.07.2024	Sri Venkataramana Reddy Patloola v. Deputy Commissioner of Income Tax, Circle 1(1), Hyderabad and Others High Court of



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		Telangana - 468 ITR 181 [W.P.No.13353, 16141 & 16877 of 2024]
8	29.07.2024	Jasjit Singh v. Union of India - High Court of Punjab & Haryana - 467 ITR 52
9	05.08.2024	Samp Furniture Pvt. Ltd. v. Income Tax Officer, Ward 3(3)-Thane & Ors High Court of Bombay - 165 taxmann.com 581
10	05.08.2024	Kairos Properties Private Limited v. ACIT, Circle-15(1)(2), Mumbai & Ors - High Court of Bombay-468 ITR 168
11	29.08.2024	W.P.No.23573/2024 in the Case of ADIT(Int Taxn), Hyderabad v. Deepanjan Roy followed the decision in W.P.No.13353 of 2024 dated 24.07.2024 [Sri Venkataramana Reddy Patloola (supra)]
12	05.02.2025	Sappahire Educational & Charitable Trust v. The ITO, Exemptions Ward, Trichy. - Income Tax Appellate Tribunal, Chennai - ITA Nos.2416 & 2417/CHNY/2024
13	24.04.2025	Tecumseh Products India (P.) Ltd. v. Deputy Commissioner of Income-tax High Court of Telangana - 174 taxmann.com 1203

13. Even though, the Ld.DR supporting the action of the JAO issuing notice u/s.148 of the Act submitted that both the NFAC & JAO have got concurrent jurisdiction and therefore, notice is valid and also submitted that there was no prejudice caused to the assessee. Therefore, he asserted that the action of the JAO issuing notice is valid and doesn't want us to interfere with the action of AO and instead, wants us to dismiss the legal issue and he cited the decision of the Hon'ble Delhi High Court & Hon'ble Calcutta High Court as well as the Hon'ble Single Bench of Madras High Court in favor of the Revenue and cited the following orders:

- Triton Overseas (P) Ltd. v. Union of India – Calcutta High Court – 156 Taxmann.com 318
- T.K.S. Builders (P) Ltd. v. ITO – Delhi High Court – 469 ITR 657
- Mark Studio India (P.) Ltd. v. Income-tax Officer, High Court of Madras 169 taxmann.com 542, order dated 20.12.2024

14. We have heard both the parties and perused the material available on record. The brief facts are that the assessee is noted to be an



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Employee's Cooperative Society and didn't file its Income Tax Return (ITR) for AY 2018-19 u/s.139 of the Act. Later, the case was reopened by the Jurisdictional Assessing Officer (JAO) u/s.147 of the Act by issuing notice u/s.148 of the Act dated 30.03.2022, pursuant to it, the assessee filed ITR declaring taxable income at 'NIL' after claiming deduction u/s.80P of the Act. And thereafter, Faceless Assessing Officer (FAO) framed the assessment u/s.147 r.w.s.144B of the Act on 09.03.2023 computing total income at ₹14,34,689/-. Later on, the Ld.PCIT has exercised his revisional/supervisory jurisdiction u/s.263 of the Act by issuing Show Cause Notice (SCN) on 18.02.2025 and after reproducing the assessee's reply in his impugned order, the Ld.PCIT was of the view that since the assessee didn't file ITR u/s.139(1) of the Act and had filed the RoI only after issuance of notice u/s.148 of the Act, therefore, assessee was not eligible for deduction u/s.80P of the Act in view of Section 80AC of the Act. And therefore, he was of the view that the entire deduction claimed u/s.80P of the Act at ₹1,48,80,278/- needs to be brought to tax and reversed the action of the AO allowing partly the deduction u/s.80P of the Act. Accordingly, the Ld.PCIT directed the AO to pass necessary consequential order. The aforesaid action of the Ld.PCIT has been challenged on the ground that the very re-assessment order [09.03.2023 u/s.147 r.w.s.144B of the Act] is non-est in the eyes of law [since the JAO erroneously issued notice u/s.148 of the Act, therefore, the



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re-opening of assessment itself was bad in law and non-est in the eyes of law being a nullity] and therefore, the action of the Ld.PCIT to hold the assessment order dated 09.03.2023 [which is a nullity] as erroneous as well as prejudicial to the interest of the Revenue is also null in the eyes of law. For the proposition, that the JAO doesn't have jurisdiction to issue notice u/s.148 of the Act on or after 29.03.2022, he relied on the binding decision of the Hon'ble Madras High Court in the case of Mark Studio India Pvt. Ltd. (supra), wherein their Lordships have held that it is mandatory for the FAO to issue the notice u/s.148 of the Act on or after 29.03.2022 and if it has been issued by the JAO then such notice u/s.148 of the Act would be invalid [i.e. the notice issued by the JAO will be invalid]. For such a proposition, the Hon'ble Madras High Court is noted to have followed the decision of the Hon'ble Bombay High Court in the case of Hexaware Technologies Limited v ACIT & Ors. [2024] 464 ITR 430 (Bom). The Hon'ble Madras High Court has held in Mark Studio India Pvt. Ltd. as under:

All these petitions got listed in view of difference of opinion between two learned Single Judges.

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'; and opined that it was mandatory for the FAO to issue notice and issuance of notice by JAO would make the notice invalid.



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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. In these petitions, apart from the issue of notices issued by JAO instead of FAO, all or many of the issues which were considered in Hexaware Technologies Ltd (supra) are involved.

10. To the extent the issues raised in Hexaware Technologies Ltd (supra) are not covered, those are kept open to be raised at the appropriate stage.

11. With the liberty as noted above, all petitions stand disposed of holding in favour of assesseees. There will be no order as to costs. Consequently, the interim applications also stand disposed of.

15. Applying the ratio laid down by the jurisdictional High Court, we find that in the present case, the JAO, Jayalakshmi M. Iyer, NCW-11(1) Chennai had issued notice u/s.148A(b) to the assessee on 16.03.2022. Pursuant to which, the assessee is noted to have replied on 24.03.2022, and the JAO being not satisfied with the reply of the assessee, passed order under Clause (d) of Section 148A of the Act on 30.03.2022 holding that it was a fit case for issuance of notice u/s.148 of the Act and after



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taking prior approval of the Ld.PCIT-8, Chennai, issued notice u/s.148 on 30.03.2022 for AY 2018-19. And pursuant thereto, assessment/re-assessment was completed on 09.03.2023 by the FAO which order of the FAO has been interfered by the Ld.PCIT exercising his jurisdiction u/s.263 of the Act. Such an impugned action of the Ld.PCIT has been challenged by the assessee by raising additional ground which challenges the legal validity of the notice issued u/s.148 of the Act by the JAO [Jayalakshmi M. Iyer] on 30.03.2022. We find merit in the legal issue raised by the assessee and find that notice u/s.148 of the Act issued on 30.03.2022, violative of the binding Circular of CBDT and therefore invalid in the eyes of law.

16. Having held that the assessment/re-assessment order dated 09.03.2023 in the assessee's own case for AY 2018-19 as void in the eyes of law, the impugned action of the Ld.PCIT to interfere with the ibid assessment/re-assessment order dated 09.03.2023 is also null in the eyes of law. For such a proposition, we rely on the legal maxim "*sublato Fundmento Credit opus*" meaning in case a foundation is removed, the super-structure falls. In *Badarinath v. Tamil Nadu* AIR 2000 SC 3243, wherein the Hon'ble Supreme Court held that once the basis of proceedings is gone, all consequential orders & acts would fall on the ground automatically which is applicable to judicial and quasi judicial proceedings. Therefore, it is held that the impugned order of Ld Pr CIT



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Employees Co-op. T & C Society Ltd

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passed u/s.263 dated 20.03.2025 interdicting order passed by FAO u/s 148A(d)/148 of the Act dated 30.03.2022 is also null/non-est in the eyes of law. Therefore, we quash the impugned order of Ld Pr CIT.

17. In the result, appeal filed by the assessee is allowed.

Order pronounced on the 18th day of September, 2025, in Chennai.

Sd/-
(अमिताभ शुक्ला)
(AMITABH SHUKLA)
लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)
न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,
दिनांक/Dated: 18th September, 2025.
TLN

आदेश की प्रतिलिपि अग्रेषित /Copy to:

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