

IN THE INCOME TAX APPELLATE TRIBUNAL
'DB', AMRITSAR BENCH, AMRITSAR

HYBRID HEARING

BEFORE HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM
AND
HON'BLE SHRI UDAYAN DAS GUPTA, JM

आयकर अपील सं./ ITA No. 593/ASR/2024
(निर्धारण वर्ष / **Assessment Year: 2019-20**)

Ms. Balwinder Kaur Patti Machhiki Machhike, Machhike Nihal Singh Wala, Moga-142039, Punjab	<u>बनम</u> / Vs.	ITO- Ward-1 Moga-142039 Punjab
स्थायी लेखा सं./PAN. GZWPK-8896-M		
(अपीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकी ओरसे/Appellant by	:	Shri Manoj Kumar (CA) - Ld. AR
प्रत्यर्थीकी ओरसे/Respondent by	:	Shri Charan Dass (Addl. CIT) - Ld. Sr. DR

सुनवाईकी तारीख/Date of Hearing	:	13-10-2025
घोषणाकी तारीख /Date of Pronouncement	:	16/10/2025

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2019-20 arises out of an order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [CIT(A)] dated 05-09-2024 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 147 r.w.s.144B of the Act on 27-02-2024.
2. From the case records, it emerges that the assessee's case was reopened to examine credit entries in bank account. The Jurisdictional Assessing Officer (JAO) issued notice u/s 148A(b) on 07-03-2023 and

thereafter, issued notice u/s 148 on 29-03-2023. After considering assessee's reply, Ld. AO made addition of Rs.5.90 Lacs. Upon further appeal, Ld. CIT(A) confirmed the assessment against which the assessee is in further appeal before us.

3. The Ld. AR has raised a pertinent legal ground to state that reopening was bad-in-law and in derogation of the provisions of Sec.151A read with CBDT Notification No.18/2022 dated 29-03-2022 which mandate issuance of such notice by Faceless Assessing Officer (FAO) only. The Ld. AR asserted that in terms of ratio of various decisions of jurisdictional High Court, issuance of notice u/s 148 by Jurisdictional Assessing Officer (JAO) instead of Faceless Assessing Officer (FAO) would vitiate the assessment proceedings. The Ld. AR referred to notice issued by Ld. AO u/s 148 on 29-03-2023 which is kept on Page No.58 of the paper-book. The Ld. Sr. DR opposed admission of any such ground at this stage of proceedings.

4. The undisputed fact that emerges is that notice u/s 148 has been issued on 29-03-2023 by Jurisdictional Assessing Officer (JAO) instead of Faceless Assessing Officer (FAO). This notice, in terms of notification of the Central Government dated 29-03-2022 u/s 151A sub-section (1) and (2) of the Income Tax Act, was required to be issued by FAO. The failure to do so would vitiate the assessment proceedings as per the lead decision of Hon'ble High Court of Punjab & Haryana in the case of **Jatinder Singh Bhangu (165 Taxmann.com 115)**, the substantive portion of which read as under: -

15. From the perusal of Section 151A, it is quite evident that scheme of faceless assessment is applicable from the stage of show cause notice under Section 148 as well as 148A. Clause 3 (b) of notification dated 29.03.2022 issued under Section 151A clearly provides that scheme would be applicable to notice under Section 148. Even otherwise, it is a settled proposition of law that assessment proceedings commence from the stage of issuance of show cause notice. The object of introduction of faceless assessment would be defeated if show cause notice under Section 148 is issued by Jurisdictional Assessing Officer. The respondents are heavily placing reliance upon office memorandum and letter issued by departmental authorities. It is axiomatic in tax jurisprudence that circulars, instructions and letters issued by Board or any other authority cannot override statutory provisions. The circulars are binding upon authorities and Courts are not bound by circulars. The mandate of Section 144B, 151A read with notification dated 29.03.2022 issued thereunder is quite lucid. There is no ambiguity in the language of statutory provisions, thus, office memorandum or any other instruction issued by Board or any other authority cannot be relied upon. Instructions/circulars can supplement but cannot supplant statutory provisions.

16. In the wake of above discussion and findings, we find it appropriate to subscribe view expressed by Bombay, Telangana and Gauhati High Court. The instant petitions deserve to be allowed and accordingly allowed.

17. The notices issued by Jurisdictional Assessing Officer under Section 148 are hereby quashed with liberty to respondent to proceed in accordance with procedure prescribed by law.

Respectfully following the same, we would hold that the impugned notice as issued by JAO u/s 148 on 29-03-2023 is liable to be quashed on this score only. We order so. Consequently, delving into other grounds has been rendered merely academic in nature.

5. The appeal stand allowed in terms of our above order.

Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal) Rules, 1963.

Sd/-
(UDAYAN DAS GUPTA)
JUDICIAL MEMBER

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Dated: 16/10/2025

आदेश की प्रतिलिपि अग्रेषित /Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AMRITSAR