

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ‘ DB-B ‘ Bench, Hyderabad
श्री विजय पाल राव, उपाध्यक्ष एवं श्री मधुसूदन सावडिया, लेखा सदस्य के समक्ष ।

Before Shri Vijay Pal Rao, Vice-President
A N D
Shri Madhusudan Sawdia, Accountant Member

आ.अपी.सं / **ITA No.352/Hyd/2025**
(निर्धारण वर्ष/Assessment Year: 2015-16)

Shri Abhishek Reddy Boyapally, Hyderabad PAN: BODPB0397F (Appellant)	Vs.	Income Tax Officer International Taxation-2, Hyderabad (Respondent)
निर्धारिती द्वारा/Assessee by:	CA Y. V. Bhanu Narayan Rao	
राजस्व द्वारा/Revenue by:	Dr.Narendra Kumar Naik, CIT(DR)	
सुनवाई की तारीख/Date of hearing:	15/10/2025	
घोषणा की तारीख/Pronouncement:	17/10/2025	

आदेश/ORDER

Per Madhusudan Sawdia, A.M.:

This appeal is filed by Shri Abhishek Reddy Boyapally (“the assessee”), feeling aggrieved by the Assessment Order passed by the ITO, International Taxation-2, Hyderabad (“Ld. AO”), dated 25.12.2024 for the A.Y 2015-16.

2. The assessee has raised the following grounds of appeal:

1. On the facts and in the circumstances of the case the order passed u/s. 147 r.w.s. 144 of the Act for the AY 2015-16 is bad in Law.
2. On the facts and in the circumstances of the case, the learned AO erred by passing the assessment order u/s. 147 r.w.s. 144 of the Act instead of passing the assessment order in accordance with the directions of the honourable DRP u/s. 147 r.w.s. 144 r.w.s. 144C (13) of the Act for the AY 2015-16.
3. On the facts and circumstances of the case, the order passed u/s 148A(d) of Act for the A.Y. 2015-16 dated 12.04.2022 vide DIN: ITBA/AST/F/148A/2022-23/1042715941(1) and the consequential notice u/s 148 of the Act dated 12.04.2022 vide DIN: ITBA/AST/S/148_1/2022-23/1042717658(1) are passed/issued by the ITO-Ward 4(1), Hyderabad instead of the Faceless A.O., which is contrary to the e-assessment of Income Escaping Assessment Scheme, 2022, read with CBDT notification no. 18/2022/F.No.370142/16/2022-TPL dated 29.03.2022 and thus all the proceedings emanating from such invalid notice and order are bad in law and null & void and are liable to be quashed.
4. On the facts and in the circumstances of the case, the assessment order passed for the A.Y. 2015-16 u/s. 147 r.w.s. 144 of the Act is bad in law and lacks jurisdiction in view of the judgement of honourable jurisdictional High Court of Telangana in the case of Kankanala Ravindra Reddy vide WP 25903/2022 reported in [2023] 22 ITR-OL 728 (Telangana) & [2023] 156 taxmann.com 178 (TELANGANA) [14-09-2023], wherein it has been held that as per the amended provisions w.e.f. 1.4.2021 notices u/s 148 of the Act can be only given by the officers of the faceless assessment unit and as such the notice u/s 148 of the Act issued by the Jurisdictional Assessing Officer is without Jurisdiction. Hence, the income determined/additions made by the learned A.O. by way of an invalid assessment needs to be deleted and the demand raised also needs to be deleted.
5. On the facts and in the circumstances of the case, the Hon'ble DRP-1, Bengaluru erred in rejecting the objections of the assessee to the draft assessment order and directing the Learned A.O. not to allow the claim of registration charges of Rs. 2,62,961/-, VAT paid of Rs. 89,322/- and Service tax of Rs. 2,69,935/- (totalling to Rs. 6,22,218/-, which was exclusively paid by the assessee) made by the assessee towards the cost of acquisition of the property. Thus, the short term capital gains in the hands of the assessee was erroneously determined at Rs. 18,60,750/- instead of at Rs. 12,38,482/-.
6. On the facts and in the circumstances of the case, the demand of Rs. 12,33,342/- (inclusive of interest Rs. 3,75,535/- u/s. 234A and Rs. 4,62,501/- u/s. 234B) was erroneously arrived at (i) by considering the assessee's share of short term capital gains at Rs. 18,60,750/- without giving the benefit of deduction of cost of acquisition of Rs. 6,22,218/- and (ii) by not giving the credit for TDS of Rs. 81,585/- (TDS on interest – Rs. 585/- and TDS on sale of flat – Rs. 81,000/-) for the AY 2015-16. Hence, the erroneous tax demand and resulting interest thereon need to be recalculated.
7. Any other ground or grounds of appeal your Assessee may urge at the time of hearing.

3. At the outset, it is observed that the assessee, as per Ground No. 4 of the appeal, has raised a legal ground which was not taken before the lower authorities and has been raised for the first time before this Tribunal. Accordingly, the said ground is in the nature of an additional

ground. The Ld. Authorised Representative (“Ld. AR”) submitted that the assessee seeks to raise this legal ground which goes to the root of the matter, and for adjudication of which no further factual verification is required. It was further submitted that being purely legal in nature, such a ground can be raised at any stage of the proceedings. Relying on the decision of the Hon’ble Supreme Court in National Thermal Power Co. Ltd. v. CIT (229 ITR 383), the Ld. AR prayed before the Bench to treat Ground No. 4 as an additional ground and admit the same for adjudication.

3.1 Per contra, the Learned Departmental Representative (“Ld. DR”) objected to the admission of this additional ground, submitting that since the assessee had not raised it before the lower authorities, the same should not be entertained at this stage.

3.2 We have heard the rival contentions and perused the material available on record. It is well settled by the decision of the Hon’ble Supreme Court in National Thermal Power Co. Ltd. v. CIT (supra) that a pure question of law, which does not require investigation into fresh facts and goes to the root of the assessment, can be raised for the first time before the appellate authority, including the Tribunal. Since the issue raised in Ground No. 4 is legal in nature and all necessary facts are already available on record, we find merit in the contention of the assessee. Accordingly, the additional ground raised by the assessee is admitted for adjudication.

4. The brief facts of the case are that the assessee is an NRI who had not filed any return of income under section 139 of the Income Tax Act, 1961 (“the Act”). The Learned Assessing

Officer (“Ld. AO”), based on the information available with him, issued a notice under section 148 of the Act to the assessee on 12.04.2022, after passing an order under section 148A(d) of the Act on the same date. After considering the submission of the assessee the Ld. AO passed draft order under section 144C of the Act proposing addition of Rs.1,892/- under income from other sources and Rs.37,21,500/- towards Short Term Capital Gain on the sale of immovable property. Against the said draft order the assessee filed objections on 02.04.2024 before the Learned Dispute Resolution Panel (“Ld. DRP”). Finally, after the directions of Ld. DRP dated 04.12.2024, the Ld. AO passed the final assessment order under section 147 read with section 144B of the Act on 25.12.2024, making additions of Rs.1,892/- under income from other sources and Rs.18,60,750/- towards Short Term Capital Gain on the sale of immovable property., thereby determining the total income of the assessee at Rs.18,62,642/-.

5. Aggrieved by the final assessment order of the Ld. AO, the assessee has preferred the present appeal before this Tribunal. At the outset, the Ld. AR submitted that the assessee is pressing only single legal ground out of the ground of appeal, i.e. challenging the validity of the notice issued under section 148 of the Act and the order passed under section 148A(d) of the Act. He submitted that both the notice and the order were issued by the Jurisdictional Assessing Officer (“JAO”) instead of the Faceless Assessing Officer (“FAO”), which is contrary to the scheme of faceless reassessment introduced by the CBDT.

6. The Ld. AR invited our attention to the order under section 148A(d) dated 12.04.2022 and the notice issued under section 148 of the Act on the same date. He demonstrated that both documents clearly bear the name and designation of the JAO. It was submitted that the CBDT Notification No. 18/2022 dated 29.03.2022, issued under section 151A(1) and (2) of the Act, mandates that with effect from 29.03.2022, all notices under section 148 of the Act must be issued through the Faceless Assessment Unit. Relying on various decisions of the Coordinate Benches of the Tribunal and Hon'ble High Courts, the Ld. AR argued that when a notice is issued by an authority having no jurisdiction in law, such notice is void ab initio, and all consequential proceedings stand vitiated. He therefore submitted that the notice issued under section 148 of the Act and the consequent assessment order passed under section 147 read with section 144B of the Act are bad in law and liable to be quashed.

7. Per contra, the Ld. DR strongly supported the orders of the lower authorities. He submitted that the legal issue raised by the assessee is pending adjudication before the Hon'ble Supreme Court in the case of Hexaware Technology Ltd., in the SLP filed by the Revenue against the Judgment of Hon'ble High Court of Bombay. Therefore, this issue may be kept open till the outcome of the SLP pending before the Hon'ble Supreme Court.

8. We have considered the rival submissions and perused the material available on record. We have gone through the order

passed under section 148A(d) of the Act, dated 12.04.2022 , which is to the following effect:

		GOVERNMENT OF INDIA MINISTRY OF FINANCE INCOME TAX DEPARTMENT OFFICE OF THE INCOME TAX OFFICER WARD 4(1),HYDERABAD/	
To, ABHISHEK REDDY BOYAPALLY 504 KAMALA TOWERS , 3-6-777 ST NO 14 HIMAYATHNAGAR HYDERABAD 500029 , Andhra Pradesh India			
PAN: BODPB0397F	A.Y: 2015-16	Dated: 12/04/2022	DIN & Notice No: ITBA/AST/F/148A/2022-23/1042715941(1)
Name of the assessee		ABHISHEK REDDY BOYAPALLY	
Address of the assessee		504 KAMALA TOWERS , 3-6-777 ST NO 14 HIMAYATHNAGAR HYDERABAD 500029 , Andhra Pradesh India	
Resident/ Not Ordinarily Resident/ Non-Resident			
Date of order		12/04/2022	
Specified authority approval		Name PCCIT, AP & TELANGANA Reference No. 100000029880924 Date	

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Order under clause (d) of section 148A of the Income-tax Act,1961

The assessee, **ABHISHEK REDDY BOYAPALLY**, PAN : **BODPB0397F**, had not filed the return of income for the AY 2015-16. Specific information was flagged as per Risk Management Strategy formulated by the CBDT through ITBA software/Insight portal. As per the specific information, *the assessee* had the following transactions during the financial year 2014-15, relevant to the assessment year 2015-16:

S. No	Nature of Transaction	Amount/Transaction Value (Rs.)
1	TDS Statement – Sales consideration on sale of	81,00,000

	immovable property (Section 194IA)	
2	TDS Statement – Payment made to non-residents (Section 195)	1,892
	Total	81,01,892

2. In view of the above transactions, an opportunity of being heard as per provision of section 148A(b) of the Income Tax Act,1961 was provided to the assessee with prior approval from competent authority vide DIN No.ITBA/AST/F/148A(SCN)/2021-22/1041461605(1), dated 24.03.2022 wherein the assessee was given a show-cause as to why income from the above transactions of Rs. 81,01,892/- should not be treated as income chargeable to tax which has escaped the assessment within the meaning of provision of section 147 of the IT Act, 1961 for the A.Y.2015-16. The show cause notice was delivered through email (reddy.abu11@gmail.com) on 24.03.2022.

3. The assessee was required to furnish reply on or before 30.03.2022, as there was no response, another opportunity was given to the assessee vide letter in DIN No. ITBA/COM/F/17/2021-22/1042269498(1) dated 31.03.2022, requesting to furnish a reply by 06.04.2022. However, no reply has been furnished by the assessee **till date**. Though sufficient opportunity has been given to the assessee till date, the assessee failed to furnish any reply or explanation either by offline or online. Therefore, it is logical to conclude that the assessee has no proper explanation with respect to the above mentioned escapement of income in this case for AY 2015-16.

4. Therefore, income chargeable to tax represented in the form of asset, which is likely to amount to Rs. 50 Lakhs or more for the A Y 2015-16 has escaped assessment.

5. In view of the above facts and on the basis of material available on record, it is held that the case of the assessee **ABHISHEK REDDY BOYAPALLY, PAN : BODPB0397F**, is a fit case for issuance of notice u/s 148 of the Act for A.Y. 2015-16.

6. This order is passed with the prior approval of the Principal Chief Commissioner of Income Tax, AP and Telangana.

Amount/Transaction Value (Rs.)	Nature of Transaction	S No

LALMUANLIAN M
WARD 4(1), HYDERABAD

9. On perusal of para no.2 of the above, it is clear that the notice under section 148A(b) of the Act was issued by JAO on 24.03.2022. It is also evident that the order under section 148A(d) of the Act was passed by JAO on 12.04.2022. Further, we have carefully examined the CBDT Notification No. 18/2022 dated 29.03.2022, issued in exercise of power conferred under section 151A(1) and (2) of the Act, which is to the following effect:

MINISTRY OF FINANCE**(Department of Revenue)**

(CENTRAL BOARD OF DIRECT TAXES)

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.

10. On perusal of para no. 3(b) of the said notification, it is evident that any notice under section 148 of the Act issued on or after 29.03.2022 shall be issued in accordance with the Faceless Assessment Scheme by the FAO. In this regard, we have also gone

through the notice issued under section 148 of the Act, which is to the following effect :



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE INCOME TAX
OFFICER
WARD 4(1),HYDERABAD/

To, ABHISHEK REDDY BOYAPALLY 504 KAMALA TOWERS , 3-6-777 ST NO 14 HIMAYATHNAGAR HYDERABAD 500029 , Andhra Pradesh India	
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PAN: BODPB0397F	A.Y: 2015-16	Dated: 12/04/2022	DIN & Notice No: ITBA/AST/S/148_1/2022- 23/1042717658(1)
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Notice under section 148 of the Income-tax Act,1961

Sir/Madam/ M/s.

- I have the following information in your case or in the case of the person in respect of which you are assessable under the Income tax Act, 1961(here in after referred to as "the Act") for Assessment Year 2015-16
 - information flagged by the risk management strategy formulated in this regard suggesting that income chargeable to tax has escaped assessment within the meaning of section 147 of the Act. Order under sub-section (d) of section 148A of the Act has been passed in such case vide DIN ITBA/AST/F/148A/2022-23/1042715941(1) dated 12/04/2022 and annexed herewith for reference,
- 2. I, therefore, propose to assess or reassess such income or recompute the loss or the depreciation allowance or any other, allowance or deduction for the Assessment Year 2015-16 and I, hereby, require you to furnish, within 30 days from service of this notice, a return in the prescribed form of the Assessment Year 2015-16.
- 3. This notice is being issued after obtaining the prior approval of the PCCIT, AP & TELANGANA accorded on date 11/04/2022 vide Reference No. 100000029880924.

LALMUANLIAN M
WARD 4(1),HYDERABAD/

11. On perusal of the above, it is evident that the notice under section 148 of the Act have been issued by the JAO on 12.04.2022. Hence, on perusal of the order under section 148A(d) of the Act, notice issued under section 148 of the Act and the CBDT notification, we find that in the present case, while the notice under section 148A(b) of the Act was issued before the date of the CBDT notification, the order under section 148A(d) of the Act and the notice under section 148 of the Act was issued on 12.04.2022, i.e., after the said CBDT notification came into effect. However, in terms of the CBDT Notification, the JAO ceased to have authority to issue notice under section 148 of the Act w.e.f. 29.03.2022. It is manifest from the above that the issue of notice under section 148 of the Act as well as the passing of order under section 148A(d) of the Act were conducted by the JAO and not in the Faceless manner as prescribed by the CBDT notification dated 29.03.2022. We note that similar issue has been considered by the Coordinate Bench of ITAT, Hyderabad in the case of Shri Kotha Kanthaiah vs. ITO in ITA.No.1259/Hyd/2024 for the assessment year 2016-17 vide Order dated 04.09.2025 wherein the Tribunal in para nos. 9 to 16 of its order held as under :

“9. We have considered the rival submissions as well as material on record. In the case of the assessee, notice u/sec.148A(b) was issued on 21.02.2023 by JAO. For ready reference, the same is reproduced as under :



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE ASSISTANT
COMMISSIONER OF INCOME TAX
CIRCLE 1, KARIMNAGAR

To, KOTHA KANTHAIAH HNO 7-3-234 JANGAM WARD 8 , JANGAM RAMGUNDAM KARIMNAGAR 505208 , Andhra Pradesh India	
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PAN: AQBPK7356C	A.Y: 2016-17	Dated: 21/02/2023	DIN & Notice No: ITBA/AST/F/148A(SCN)/2022- 23/1049973923(1)
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Notice under clause(b) of section 148A of the Income-tax Act, 1961

Sir/Madam/M/s

Whereas I have information which suggests that income chargeable to tax for the Assessment Year 2016-17 has escaped assessment within the meaning of section 147 of the Income-tax Act, 1961. The details of the information/ enquiry conducted on which reliance is being placed, along with supporting documents, are enclosed with this notice.

2. You are required to show-cause as to why, in view of the details contained in enclosures mentioned in point number 1 above, a notice section 148 of the Income tax Act, 1961 should not be issued.
3. You may submit your reply to this notice, along with supporting documents (if any) on the above mentioned issues on or before **05/03/2023** electronically at www.incometax.gov.in.

LAXMI PAVANA GAYATHRI MUKKERA
CIRCLE 1, KARIMNAGAR

10. Thereafter, the AO also passed an order u/s 148A(d) on 29.03.2023, wherein, the AO has recorded that, despite

sufficient time allowed to the assessee in accordance with the provisions of section 148A(b) for compliance to the show cause notice dated 21.02.2023, there is no compliance on behalf of the assessee to the said show cause notice. The AO decided that it is a fit case for issue of notice u/s 148 of the Act and consequently notice u/s 148 was issued on 30.03.2023 as under :

 GOVERNMENT OF INDIA MINISTRY OF FINANCE INCOME TAX DEPARTMENT OFFICE OF THE ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 1, KARIMNAGAR			
To, KOTHA KANTHAIAH HNO 7-3-234 JANGAM WARD 8 , JANGAM RAMGUNDAM KARIMNAGAR 505208 , Andhra Pradesh India			
PAN: AQBPK7356C	A.Y: 2016-17	Dated: 30/03/2023	DIN. & Notice No: ITBA/AST/S/148 1/2022- 23/1051671241(1)
Notice under section 148 of the Income-tax Act, 1961			
Sir/Madam/ M/s.			
1. I have the following information in your case or in the case of the person in respect of which you are assessable under the Income tax Act, 1961 (here in after referred to as "the Act") for Assessment Year 2016-17. <ul style="list-style-type: none"> • information in accordance with the risk management strategy formulated in this regard suggesting that income chargeable to tax has escaped assessment within the meaning of section 147 of the Act. Order under sub-section (d) of section 148A of the Act has been passed in such case vide DIN ITBA/AST/F/148A/2022-23/1051563421(1) dated 29/03/2023 and annexed herewith for reference,			
2. I, therefore, propose to assess or reassess such income or recompute the loss or the depreciation allowance or any other allowance or deduction for the Assessment Year 2016-17 and I, hereby, require you to furnish, within 30 days from the service of this notice, a return in the prescribed form for the Assessment Year 2016-17.			
LAXMI PAVANA GAYATHRI MUKKERA CIRCLE 1, KARIMNAGAR			

11. Undisputedly, the show cause notice u/s 148A(b) as well as notice u/s 148 were issued by the JAO and not by the faceless Assessing Officer. At the outset, we note that the Hon'ble Jurisdictional High Court has considered an identical issue in assessee's own case for the immediate preceding assessment year i.e. 2015-16 vide judgement dated 24.04.2025 in W.P.No.344 of 2025 and has recorded the issue

involved in the said petition in para 4 of the said judgement as under :

4. The contention of the petitioner is that the issue of proceedings being in violation of the Finance Act, 2021 i.e., the impugned notices under Section 148A and Section 148 of the Act not being issued in a faceless manner, have already been dealt with and decided by this Court in the case of **KANKANALA RAVINDRA REDDY vs. INCOME-TAX OFFICER¹** decided on 14.09.2023 whereby a batch of writ petitions were allowed and the proceedings initiated under Section 148A as also under Section 148 of the Act were held to be bad with consequential reliefs on the ground of it being in violation of the provisions of Section 151A of the Act read with Notification 18/2022 dated 29.03.2022. The said judgment passed by this Court has also been subsequently followed in a large number of writ petitions which were allowed on similar terms.

12. It was further noted by the Hon'ble jurisdictional High Court that this issue has been decided against the Revenue by various High Courts and the details of all the judgements of various High Courts are given in para 5 of the said judgement as under :

5. Down the line, we find that the same issue has also been decided against the Revenue by various High Courts i.e., by the Bombay High Court in the case of **HEXAWARE TECHNOLOGIES LTD., vs. ASSISTANT COMMISSIONER OF INCOME TAX & OTHERS**², Gauhati High Court in the case of **RAM NARAYAN SAH vs. UNION OF INDIA**³, Punjab and Haryana High Court in the case of **JATINDER SINGH BANGU vs. UNION OF INDIA**⁴, and Telangana High Court in the case of **SRI VENKATARAMANA REDDY PATLOOLA vs. DEPUTY COMMISSIONER OF INCOME TAX**⁵ where the issue was in respect of international taxation, Bombay High Court in the case of **ABHIN ANILKUMAR SHAH vs. INCOME TAX OFFICER, INTERNATIONAL TAXATION**⁶ which is again on international taxation and central circle, High Court of Himachal Pradesh in the case of **GOVIND SINGH vs. INCOME TAX OFFICER**⁷, Gujarat High Court in the case of **MANSUKHBHAI**

² [2024] 464 ITR 430 (Bom)

³ [(2024) 156 taxmann.com 478 (Gauhati)]

⁴ [(2024) 165 taxmann.com 115 (Punjab & Haryana)]

⁵ [2024] 167 taxmann.com 411 (Telangana)]

⁶ [2024] 166 taxmann.com 679 (Bombay)]

⁷ [2024] 165 taxmann.com 113 (Himachal Pradesh)]

DAHYABHAI RADADIYA vs. INCOME TAX OFFICER, WARD 3(3)(5)⁸. Jharkand High Court in the case of **SHYAM SUNDAR SAW vs. UNION OF INDIA**⁹, Rajasthan High Court in the case of **SHARDA DEVI CHHAJER vs. INCOME TAX OFFICER & ANOTHER** and batch of writ petitions¹⁰ which stood decided on 19.03.2024. Similar views have also been taken by the Division Bench of Calcutta High Court in the case of **GIRDHAR GOPAL DALMIA vs. UNION OF INDIA & ORS** (M.A.T 1690 of 2023), decided on 25.09.2024.

13. In light of various judgements of the Hon'ble High Courts, including the judgement of the jurisdictional High Court in the case of Kankanala Ravindra Reddy Vs. Income Tax Officer [2024] 156 taxmann.com 178 (Telangana), the Hon'ble High Court has held in para 13 to 19 as under :

13. Another aspect which needs to be considered is that in fact it should have been realized by the Income Tax Department itself and should have found out via media in ensuring that proceedings under Sections 148-A and 148 should not have been issued in a faceless manner, at least till the Hon'ble Supreme Court decide the twelve hundred (1200) odd SLPs which it is already seized of or, at least the Income Tax Department should have found out some remedial steps to ensure that wherever the authorities intend to initiate proceedings under Sections 148-A and 148, other than in a faceless manner, the proceedings should have been deferred without precipitating the matter further intimating the assessee that they shall initiate appropriate proceedings only after the SLP's are decided by the Hon'ble Supreme Court on the very same issue. This again, the Income Tax Department, has not been able to give a convincing reply, except for the fact that such a decision if at all

has to be taken, has to be taken for the whole of India, and which otherwise has to be by way of a policy decision and that too at the level of Central Board of Direct Taxes. Though the learned Standing Counsel for the Income Tax Department contended that the Delhi High Court dismissed a writ petition of similar nature, on the one hand when the High Court is struggling to reduce its pendency, such notices which are under challenge in this writ petition are forcing the assessee to knock the doors of this High Court resulting in filing of hundreds of new writ petitions which in the long run not only affects the disposal of the writ petitions but also consumes substantial time of the Bench in hearing these matters again and again on daily basis. Admittedly, in spite of the matter before the Hon'ble Supreme Court having been taken on many occasions, the Hon'ble Supreme Court which is seized of the matter has been reluctant in granting any interim protection to the Income Tax Department. Yet, the authorities concerned at the State level are not ready to accept the verdict passed by a majority of High Courts of different States on the same issue; and to make things further worse, the Income Tax Department is showing audacity by issuing notices continuously under Sections 148-A and

148 through the jurisdictional Assessing Officer whereas it ought to have been only in the faceless manner.

14. In the case of **BANK OF INDIA vs. ASSISTANT COMMISSIONER, INCOME TAX**¹¹, on an issue whether it was justifiable on the part of the Income Tax Department in not following an order passed by the adjudicating authority only on the ground that the appeals are pending, the Division Bench of the High Court of Bombay held at paragraph No.25 as under, viz., :

"25. Mr. Paridwalla has rightly drawn out attention to the decision of this Court in **Commissioner of Income Tax vs. Smt. Godavaridevi Saraf**¹² as also the recent decision of the coordinate Bench of this Court in **Samp Furniture (P) Ltd. v. ITO**¹³ of which one of us (Justice G.S. Kulkarni) was a member, wherein the Court categorically observed that the Revenue having not "accepted" the judgment of the High Court would not mean that till the same is set aside in a manner known to law, it would loose its binding force. Referring to the decision of the Supreme Court in **Union of India vs. Kamlakshi Finance Corporation Ltd.**¹⁴, the Court observed that the approach of the officials of Revenue of treating decisions being "not acceptable" was criticized by the Supreme Court. In such decision, following are the relevant observations made by the Supreme Court.

¹¹ [(2025) 170 taxmann.com 422 (Bombay)]

¹² [1978] 113 ITR 589 (Bombay)

¹³ [2024] 165 taxmann.com 581/300 Taxman 452 (Bombay)

¹⁴ [1992] taxmann.com 16/55 ELT 433 (SC)

"6. Sri Reddy is perhaps right in saying that the officers were not actuated by any mala fides in passing the impugned orders. They perhaps genuinely felt that the claim of the assessee was not tenable and that, if it was accepted, the Revenue would suffer. But what Sri Reddy overlooks is that we are not concerned here with the correctness or otherwise of their conclusion or of any factual malafides but with the fact that the officers, in reaching in their conclusion, by-passed two appellate orders in regard to the same issue which were placed before them, one of the Collector (Appeals) and the other of the Tribunal. The High Court has, in our view, rightly criticized this conduct of the Assistant Collectors and the harassment to the assessee caused by the failure of these officers to give effect to the orders of authorities higher to them in the appellate hierarchy. It cannot be too vehemently emphasized that it is of utmost importance that, in disposing of the quasijudicial issues before them, revenue officers are bound by the decisions of the appellate authorities. The order of the Appellate Collector is binding on the Assistant Collectors working within his jurisdiction and the order of the Tribunal is binding upon the Assistant Collectors and the Appellate Collectors who function under the jurisdiction of the Tribunal. The principles of judicial discipline require that the orders of the higher appellate authorities should be followed unreservedly by the subordinate authorities. The mere fact that the order of the appellate authority is not "acceptable" to the department – in itself an objectionable phrase – and is the subject matter of an appeal can furnish no ground for not following it unless its operation has been suspended by a competent court. If this healthy

rule is not followed, the result will only be undue harassment to assesses and chaos in administration of tax laws.

... ..

12. We have dealt with this aspect at some length, because it has been suggested by the learned Additional Solicitor General that the observations made by the High Court, have been harsh on the officers. It is clear that the observations of the High Court, seemingly vehement, and apparently unpalatable to the Revenue, are only intended to curb a tendency in revenue matters which, if allowed to become widespread, could result in considerable harassment to the assesses-public without any benefit to the Revenue. We would like to say that the department should take these observations in the proper spirit. The observations of the High Court should be kept in mind in future and the utmost regard should be paid by the adjudicating authorities and the appellate authorities to the requirements of judicial discipline and the need for giving effect to the orders of the higher appellate authorities which are binding on them.”

15. What is worrying this Bench more is the fact that an endeavour is being made whole heartedly to ensure not to generate further litigation on issues which have been laid to rest by a large number of High Courts all of whom have taken a consistent stand that the action of the Income Tax Department being violative of the

Finance Act, 2020 and Finance Act, 2021. Now, in order to protect the interest of the Revenue as also that of the assessee, it would be trite at this juncture, if we dispose of the writ petition with an observation/direction that the disposal of the instant writ petition in terms of the judgment rendered by this High Court in the case of ***Kankanala Ravindra Reddy*** (1 supra) shall however be subject to the outcome of the SLPs which were filed by the Income Tax Department and which is pending consideration before the Hon'ble Supreme Court.

16. In the given facts and circumstances, this Bench is of the considered opinion that unless and until we do not timely dispose of matters which are squarely covered by the decision of this Court and which stands fortified by the decisions of the various other High Courts on the very same issue, the pendency of this High Court would further be burdened which otherwise can be decided and disposed of as a covered matter.

17. So far as the interest of the Revenue is concerned, we are of the considered opinion that the interest of the Revenue has already been considered and protected, as has been observed in paragraphs

36, 37 and 38 of the order which, for ready reference, is reproduced hereunder:

36. For all the aforesaid reasons, the impugned notices issued and the proceedings drawn by the respondent-Department is neither tenable, nor sustainable. The notices so issued and the procedure adopted being *per se* illegal, deserves to be and are accordingly set aside/quashed. As a consequence, all the impugned orders getting quashed, the consequential orders passed by the respondent-Department pursuant to the notices issued under Section 147 and 148 would also get quashed and it is ordered accordingly. The reason we are quashing the consequential order is on the principles that when the initiation of the proceedings itself was procedurally wrong, the subsequent orders also gets nullified automatically.

37. The preliminary objection raised by the petitioner is sustained and all these writ petitions stands allowed on this very jurisdictional issue. Since the impugned notices and orders are getting quashed on the point of jurisdiction, we are not inclined to proceed further and decide the other issues raised by the petitioner which stands reserved to be raised and contended in an appropriate proceedings.

38. Since the Hon'ble Supreme Court had, in the case of Ashish Agarwal, supra, as a one-time measure exercising the powers under Article 142 of the Constitution of India, permitted the Revenue to proceed under the substituted provisions, and this Court allowing the petitions only on the procedural flaw, the right conferred on the Revenue would remain reserved to

proceed further if they so want from the stage of the order of the Supreme Court in the case of Ashish Agarwal, supra.

18. We would only further like to make observations that since we are inclined to dispose of the instant writ petition, conscious of the fact that the earlier order of this High Court in the case of *Kanakala Ravindra Reddy* (1 supra) is subjected to challenge before the Hon'ble Supreme Court in SLP No.3574 of 2024, preferred by the Income Tax Department, we make it clear that allowing of the instant writ petition is subject to outcome of the aforesaid SLP preferred by the Revenue against the decision of this High Court in the case of *Kanakala Ravindra Reddy* (1 supra). This, in other words, would mean that either of the parties, if they so want, may move an appropriate petition seeking revival of this writ petition in the light of the decision of the Hon'ble Supreme Court in the pending SLP on the very same issue.

19. Accordingly, the instant writ petition stands allowed in favour of the assessee so far as the issue of jurisdiction is concerned. As a consequence, the impugned notice under challenge under Sections 148-A and 148 stands set aside/quashed.

The consequential orders, if any, also stand set aside/quashed in similar terms as have been passed by this High Court in the case of *Kankanala Ravindra Reddy* (1 supra). There shall be no order as to costs.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

14. Thus, it is clear that the issue raised by the assessee in the present appeal is now covered by the decision of Hon'ble Jurisdictional High Court in the assessee's own case for the A.Y.2016-17. As regards the contention of the Ld.DR that no such issue was raised by the assessee before the authorities below, we find from the Grounds of Appeal raised before the CIT(A) that the assessee had raised this issue in ground No.2 to 5 as under :

2. On the facts and in the circumstances of the case and in law, the Jurisdictional Assessing Officer erred by initiating proceedings u/s 147 of the Act, simply relied on the SFT information shown in the verification module of Insight Portal at the time of reopening, however, either no information gathered or not conducted any inquiry further in order to form an honest and a reasonable belief that certain income had escaped assessment in the case of the appellant, As such, said proceedings and the consequent order ought to be declared null and void-ab-initio.

3. The Notice issued u/s 148 of the I.T. Act, 1961 dated 30.03.2023 is illegal and unsustainable in law since the income alleged to have escaped assessment, actually is far below the threshold limit of Rs. 50 Lacs/-, in the present case, it is actually Rs. 30,61,000/- only and thereby, barred by limitation under the provisions of section 149(1) (a) of the Act. Since the impugned notice issued u/s 148 of the I.T Act, 1961 dated 30.03.2023, is illegal and unsustainable in law, accordingly, the impugned reassessment order u/s 147 r.w.s 144B of the Act dated 01.03.2024 and the notice of demand dated 01.03.2024 issued u/s 156 of the Act are also bad in law and unsustainable and the same, is hereby, quashed and set aside.

4. On the facts and in the circumstances of the case and in law, the Assessment Unit/NaFAC erred by making the additions without supplying the relevant documents or tangible material to the appellant and without obtaining the bank account statement(s) relied on which the case was reopened by the JAO, as such, said proceedings and the consequent order ought to be declared null and void-ab-initio.

5. On the facts and in the circumstances of the case and in law, the Jurisdictional Assessing Officer erred in the proceedings initiated u/s 147 of the Act without following due procedure prescribed by CBDT vide Instruction NoF.No.299/10/2022-Dir(Inv.III)/647 dt., 22.08.2022 and accordingly the said proceedings and the consequent order ought to be declared null and void ab initio.

15. In view of the facts emanating from the record, we find that the assessee has duly raised this issue before the CIT(A) and therefore, the contention raised by the Ld.DR is devoid of any merit. Accordingly, the show cause notice issued u/s 148A(b) dated 21.02.2023 as well as notice issued u/s 148 dated 30.03.2023 by the JAO are not valid and liable to be quashed. We order accordingly.

16. However, since the matter is pending adjudication before the Hon'ble Supreme Court and Hon'ble High Court has also given the liberty to the parties to move an appropriate petition, seeking revival of W.P. in light of judgement of Hon'ble Supreme Court on this very issue, we also grant liberty to the parties to get this appeal revived, if, in case the judgement of

the Hon'ble Supreme Court on this issue necessitate to modify this order".

12. On perusal of the above, it is clear that the Hon'ble Jurisdictional High Court for the State of Telangana has taken a consistent view that the notice under section 148 of the Act by the JAO is not valid and liable to be set-aside/quashed. In the present case, there is no dispute on the fact that the notice under section 148 of the Act has been issued by the JAO after the date of CBDT notification. Therefore, respectfully following the Judgment of Hon'ble Jurisdictional High Court for the State of Telangana as well as the decisions of this Tribunal (supra), we hold that, the notice issued by the JAO under section 148 of the Act, dated 12.04.2022 is not valid and liable to be quashed. We order accordingly.

13. Further, since the issue is pending for adjudication before the Hon'ble Supreme Court in the SLP filed by the Revenue in the case of Hexaware Technology Ltd., against the Judgment of Hon'ble High Court of Bombay and the Order of Hon'ble Jurisdictional High Court for the State of Telangana in the case of Kotha Kanthaiyah, Karimnagar in WP.No.344 of 2025, dated 24.04.2025 (supra) has also given the liberty to the parties to move an appropriate petition seeking revival of the petition in light of Judgment of Hon'ble Supreme Court in the case of Hexaware Technology Ltd., (supra) on this issue. Therefore, we grant liberty to the parties to get this appeal revived, if the Judgment of Hon'ble Supreme Court on this issue necessitates to modify this Order.

Accordingly, appeal of the assessee is allowed in terms of our above observation.

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

Order pronounced in the Open Court on 17th Oct., 2025.

Sd/-

Sd/-

(VIJAY PAL RAO) VICE PRESIDENT	(MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER
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Hyderabad,
Dated 17th October, 2025

** Reddy gp sps*

Copy to:

S.No	Addresses
1	Shri Abhishek Reddy Boyapally, 504, Kamala Towers, 3-6-777, Steet No.14, Himayathnagar, Hyderabad-500029
2	Income Tax Officer, International Taxation-2, Hyderabad.
3	CIT (IT & TP), Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order