

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

श्री यस यस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री जगदीश, लेखक सदस्य के समक्ष
BEFORE SHRI SS VISWANETHRA RAVI, JUDICIAL MEMBER AND
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2473/Chny/2025
निर्धारण वर्ष /Assessment Year: 2015-16

Dhanalakshmi,
No.61, Vivekananda Street,
Near Arcot Road,
Virugambakkam,
Chennai – 600 092.
PAN: AUHPD 4323J

Vs. The Income Tax Officer,
Non Corporate Ward-8(1),
Chennai.

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Shri Y. Sridhar, FCA
: Ms. M. Subashri, Addl. CIT (virtual)

सुनवाई की तारीख/Date of Hearing

: 19.11.2025

घोषणा की तारीख /Date of Pronouncement

: 27.11.2025

आदेश / ORDER

PER JAGADISH, A.M :

Aforesaid appeal filed by the assessee for Assessment Year (AY) 2016-17 arises out of the order of Learned Commissioner of Income Tax (NFAC), Delhi [hereinafter "CIT(A)"] dated 29.08.2025 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s. 147 r.w.s 144 of the Income-tax Act, 1961 (hereinafter "the Act") dated 11.03.2024.

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2. The assessee is an individual and has not filed the return of income for the relevant assessment year. The Jurisdictional Assessing Officer (hereinafter referred as "JAO") on the basis of information that the assessee had made huge cash deposits in her bank accounts, but has not filled return of income, reopened the assessment by issuing notice under section 148 of the Act on 04.04.2022. Subsequently , Faceless Assessing Officer (hereinafter referred as "FAO") has passed assessment order u/s. 147 r.w.s 144 of the Act, making an addition of Rs.96,60,969/- u/s 69A r.w.s.115BBE of the Act as unexplained money and Rs.5,55,281/- as income from other sources. Aggrieved, the assessee preferred an appeal before the Ld. CIT(A) with a delay of 143 days. However, the Ld. CIT(A) did not condone the delay and dismissed the appeal in *limine*.

3. The assessee in ground no 3 has challenged the reassessment proceeding *void-ab-initio* as the notice for reopening was issued by J.A.O in violation of CBDT instructions of faceless assessment scheme. The Ld. AR has argued that Ld. CIT(A) has dismissed the appeal for the reason that there was 14 days delay in filling appeal, though there was sufficient cause for the delay in filing the appeal. The Ld. A.R therefore, prayed that the orders of lower authorities be set

aside as they are without jurisdiction and against the principles of natural justice.

4. The Learned Departmental Representative (Ld. D.R) relied on the orders of the lower authorities and requested that the appeal be dismissed.

5. We have heard the rival submissions and perused the materials available on record. The assessment in this case has been reopened by issuing notice u/s 148 of the Act on 04.04.2022 by the J.A.O. The assessment order has been passed by the FAO u/s 147 of the Act on 11.03.2024. The Honorable jurisdictional High Court in the case of TVS Credit Service Ltd vs DCIT in WP No 22402 of 2024 & WMP No 13336 of 2023 on the issue of reassessment notice issued by the J.A.O after March 29, 2022 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’; 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

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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 assessees 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 Hexauxare 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 assessees. There will be no order as to costs. Consequently, the interim applications also stand disposed of."

6. Therefore, respectfully following the decision of the Hon'ble jurisdictional High Court, supra, we set aside the impugned notice

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u/s.148 of the Act and consequential orders thereof. However, in the light of the Para No.8 of the judgment of the jurisdictional High Court, we also keep open of rights and contentions of parties including liberty to approach this bench, in case, the Revenue succeeds before the Apex Court for revival of this appeal.

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

Order pronounced on 27th day of November, 2025 at Chennai.

Sd/-
(यस यस विश्वनेत्र रवि)
(SS Viswanethra Ravi)

न्यायिक सदस्य / Judicial Member

Sd/-
(जगदीश)
(Jagadish)

लेखा सदस्य / Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 27th November, 2025.

EDN, Sr. P.S

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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