

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

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

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

आयकर अपील सं./ITA Nos.2703 & 2704/Chny/2025
निर्धारणवर्ष/Assessment Year: 2018-19

M/s. Ammapalayam Basuvaptti – Primary Agricultural Co-op. Credit Society Ltd., 54/67, Appachi Chettiar Street, Chennimalai, Erode-638 051. [PAN: AACAA 0842 M] (अपीलार्थी/Appellant)	v.	The ITO, Ward-2(1), Erode. (प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Ms.A. Vijayalakshmi, CA (by virtual)
प्रत्यर्थी की ओर से /Respondent by	:	Mr.R. Raghupathy, Addl.CIT
सुनवाईकीतारीख/Date of Hearing	:	19.11.2025
घोषणाकीतारीख /Date of Pronouncement	:	04.12.2025

आदेश / ORDER

PER ABY T. VARKEY, JM:

These are appeals preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter referred to as 'Ld.CIT(A)'), Delhi, dated 07.08.2025 for the Assessment Year (hereinafter referred to as 'AY') 2018-19 against quantum assessment and penalty levied u/s.271B of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').



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ITA No.2703/Chny/2025 (quantum appeal)

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

Additional Ground: Invalid Reassessment Notice under Section 148 - Lack of Jurisdiction

The notice issued under Section 148 dated 06.04.2022 by the Jurisdictional Erode Assessing Officer, Ward-2(1) (JAO), Erode, is void ab initio and without jurisdiction, as CBDT Notification No. 18/2022 dated 29.03.2022 mandates that issuance of notice under Section 148 must be done only by the Faceless Assessing Officer (FAO).

3. According to the Ld.AR, the impugned notice issued u/s.148 dated 06.04.2022, is invalid and bad in law being issued by the Jurisdictional Assessing Officer (herein after 'JAO') which is not in accordance with Sec. 151/151A of the Act read with the faceless Scheme notified by CBDT on 29th 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. Further, according to the Ld AR, in exercise of the powers conferred u/s.151A of the Act, CBDT had issued a 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



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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, according to Ld AR, since the impugned notice u/s 148 dated 06.04.2022 has been issued by JAO and not by the NFAC, there is per-se contravention of the provisions of the Act, thus violating the principles of Rule of Law, which vitiates the reopening of the assessment; and further pointed out that this legal issue raised by the assessee has been answered in favor of the assessee by the jurisdictional High Court & other Hon'ble High Courts;-

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 Sureshababu 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 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.



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		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

4. Per contra, the Ld.DR supported the action of the JAO issuing notice u/s.148 of the Act and 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

5. We have heard both the parties and perused the material available on record. We on the legal issue raised by the assessee note that the JAO Shri Kumaresan Tirumalai, Ward-2 (1), Erode, had issued notice u/s.148 of the Act on 06.04.2022 [a copy of which has been placed before us], and pursuant to it, reopened the assessment for AY 2018-19 u/s.147 of



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the Act and thereafter, the NFAC passed the re/assessment order on 29.02.2024 making an addition of Rs.32,43,480/- [by denying section 80P deduction]. The action of JAO issuing impugned notice dated 06.04.2022 is assailed before us as bad in law on the strength of Hon'ble Jurisdictional High Court and other judicial precedents cited supra and in this regard notes that the impugned notice shows that they were all issued by JAO/ Shri Kumaresan Tirumalai, Ward-2 (1), Erode, thereafter, the NFAC is noted to have framed the re-assessment order on 29.02.2024 making an addition of Rs.32,43,480/-.

6. Aggrieved, the assessee preferred an appeal before the Ld.CIT(A) who was pleased to confirm the action of the AO/NFAC, against which, assessee has preferred before this Tribunal.

7. Since the assessee has raised legal issue against the impugned action of the JAO issuing notice u/s.148 of the Act dated 06.04.2022 by raising Additional Ground as noted supra, the assessee contends that notices issued by the JAO after 29.03.2022 expressing his desire to reopen the assessment is bad in law after the CBDT Faceless Scheme notified from 29.03.2022 (supra) read with section 151/151A of the Act, which legal issue we will deal first.

8. We note that on this legal issue there are divergent views expressed by different Hon'ble High Courts. However, it is noted that on this issue



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the Hon'ble jurisdictional High Court i.e. Madras High Court (Division Bench) in Mark Studio India (P.) Ltd. (supra) has expressed its view in favour of the assessee, and has concurred with the view on this issue as held by the Hon'ble Bombay High Court in the case of Hexaware Technologies (supra). And it is noted that similar view in favour of assessee has been taken by Hon'ble Gujarat High Court, the Hon'ble Telangana High Court and the Hon'ble Punjab & Haryana High Court as cited by Ld AR (supra). Even though, the Ld.DR has brought to our notice that on the legal issue, the Hon'ble Delhi High Court & Hon'ble Calcutta High Court and Hon'ble Single Bench of Madras High Court in Mark Studio India (P.) supra has held in favour of the Revenue; but since the Hon'ble jurisdictional High Court (Division Bench) in Mark Studio India (P.) (supra) has reversed the Hon'ble Single Bench and has taken view in favour of assessee as held in Hexaware Technologies Ltd. (Bom), according to us, the legal issue raised by the assessee is no longer res-integra and we are bound to follow the decision in favour of the assessee on the legal issue raised before us.

9. The Hon'ble Bombay High Court in the case of Hexaware Technologies Ltd., (supra) is noted to have has even dealt with the decision rendered by the Hon'ble Calcutta High Court in favour of the Revenue, but concurred with the view of the Hon'ble Telangana High Court in the case of Sri Venkataramana Reddy Patloola v. DCIT reported



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in [2023] 156 taxmann.com 178 (Telangana) and held that in view of the provisions of Sec.151A of the Act read with Faceless Scheme dated 29.03.2022, notices issued by the JAO u/s.148A(d)/148 of the Act was invalid and bad in law. We further note that aforesaid decision of the Hon'ble Telangana High Court has been followed not only by the Hon'ble Bombay High Court, but also by the Hon'ble Gauhati High Court in the case of Ram Narayan Sah v. Union of India reported in 163 taxmann.com 478, and the Hon'ble Punjab & Haryana High Court in the case of Jatinder Singh Bhangu v. Union of India reported in 165 taxmann.com 115 and other cited cases (supra). And as noted (supra) the Hon'ble jurisdictional High Court (Single Bench) order in the case of Mark Studio India (P.) Ltd. v. Income-tax Officer, held in favour of Revenue, was reversed by the Hon'ble Division Bench by order dated 24.06.2025 by holding as under:

This appeal impugns an order passed by the learned Single Judge.

2. The learned Single Judge was pleased to dismiss the petition on the ground that even if the notice has been issued by Jurisdictional Assessment Officer and not Faceless Assessment Officer, the notice issued under Section 148A/148 of the Income Tax Act will be valid.

3. Ms.Vardhini Karthik submitted that this Court has, in many matters, held, following the judgment of the Bombay High Court in Hexaware Technologies Limited v. Assistant Commissioner of Income Tax', that notice that has to be issued by Faceless Assessment Officer has to be issued Faceless Assessment Office and if issued by Jurisdictional Assessment Officer, the same is not valid.

4. Ms.Premalatha, who takes notice for the Revenue, states that the law as proposed by Ms.Vardini Karthick is correct and therefore, the Court may quash and set aside the notices, but keep open liberty of the Revenue to re-ignite the notices in case the Apex Court interferes with the order and judgment of the Bombay High Court in Hexaware Technologies (supra).



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5. Keeping open the Revenue's rights and contentions, as noted above, the impugned notices dated 15.04.2024 are quashed and set aside. The appeal is disposed of. There shall be no order as to costs. Consequently, the interim application is closed.

10. In the light of the aforesaid discussion, we find that in the case in hand, the JAO had issued notice u/s.148 dated 06.04.2022 which impugned notice has been issued despite faceless scheme was notified by Central Government on 29.03.2022 pursuant to section 151A of the Act, making it mandatory for the issuance of notice u/s.148A(b), 148A(d) as well as 148 of the Act by the Faceless Mechanism, the impugned notices especially issued u/s.148 dated 06.04.2022 is found to be invalid and bad in law, since it has been issued contrary to law and is against the 'Rule of Law'; which impugned action of the JAO vitiates the reopening of assessment for AY 2018-19 by issuance of impugned notice dated 06.04.2022 u/s.148 of the Act and is therefore held to be illegal and bad in law and therefore, assessment order dated 29.02.2024 is held to be null in eyes of law; and the assessee succeeds, on the legal issue which is held in favour of the assessee and therefore, we are inclined not to go into the merits of the addition made by the NFAC.

11. In the result, appeal filed by the assessee in ITA No.2703/Chny/2025 for AY 2018-19 is allowed.



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12. This is an appeal preferred by the assessee against the penalty levied u/s.271B of the Act. In this regard, it is noted that the assessee is a Primary Agricultural Cooperative Credit Society and the audit of the Society was conducted during the month of November, 2018 by the Assistant Director of Cooperative Audit, Department of Cooperative Audit, Tamil Nadu after getting the approval from the Assistant Director of Cooperative Audit, Erode, the assessee society received the Audit Report on 30.11.2018 and couldn't upload the same due to technical glitches. Since the aforesaid explanation given by the assessee couldn't be disproved and taking note that the assessee had filed a copy of the same before the AO [albeit pursuant to Sec.148 notice], we are of the view that there was a reasonable cause for not uploading the same within the time-limit. And as noted the completion of statutory audit was beyond the control of the assessee as the matter related to the appointment and completion of audit by the State/Co-operative Department; and it is a fact that the assessee would not stand to gain anything by completing the audit belatedly. And it is a fact that the assessee would be able to get Tax Audit Report only after finalization of financial accounts and completion of audit by the State Co-operative Department. In such a scenario, the explanation of the assessee is accepted as a reasonable cause for belated filing of TAR. Therefore, considering the peculiar facts of the case for this



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relevant AY 2018-19, Section 273B comes to the aid of the assessee and hence, we are inclined to delete the penalty of Rs.1.5 lakhs levied u/s.271B of the Act and expect the assessee to comply scrupulously filing of ITR, Audit Report, etc., within the time-limit prescribed by the provisions of the Act. Moreover, it is noted that in a similar case, the coordinate Bench of this Tribunal [in ITA No.3256/Chny/2024 for AY 2018-19] by order dated 29.04.2025, has deleted the penalty levied u/s.271B of the Act and by order as under:

3. We have heard both the parties and perused the material available on record. We note that the assessee is a co-operative society registered under the Tamil Nadu Co-operative Societies Act, 1983 and was subject to audit as per the Tamil Nadu Cooperative Societies Act, 1983 by the Auditor who are appointed by the Director of the Co-operative Audit or the Registrar of the Societies. The government auditor is noted to have conducted the statutory audit of the accounts of the assessee and given the report on 08.01.2019 and thereafter, the assessee's auditor has completed the TAR on 06.02.2019 and filed Form No.3CD on 13.02.2019. The delay in filing of the Audit Report was due to the belated completion of statutory audit by the State / Co-operative Department which got completed on 08.01.2019 which led to the delay in filing of the TAR in Form No.3CD on 13.02.2019. The completion of statutory audit was beyond the control of the assessee as the matter related to the appointment and completion of audit by the State / Co-operative Department; and it is a fact that the assessee would not stand to gain anything by completing the audit belatedly. And it is a fact that the assessee would be able to get Tax Audit Report only after finalization of financial accounts and completion of audit by the State Co-operative Department. In such a scenario, the explanation of the assessee is accepted as a reasonable cause for belated filing of TAR. In this regard, we note that the coordinate bench in the case of M/s.Balaji Logistics (ITA No.2248/Chny/2019 dated 07-09-2022), which relied on another decision of Tribunal in M/s T.P.D. 101, Uthangarai Milk Producer Co-operative Society Ltd. (ITA No.152/Chny/2021 dated 29-06-2022) held that when Tax Audit Report was made available to the AO before completion of assessment proceedings, then mere venial technical breach without any mala fide intention would not call for levy of penalty u/s 271B. Similar are the other decisions as placed on record. Therefore, by following the same, we delete the impugned penalty and allow the appeal of the assessee.

13. Respectfully following the discussion & decision of the coordinate Bench of this Tribunal (supra), we are inclined to delete the penalty of Rs.1.5 lakhs levied u/s.271B of the Act.



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14. In the result, appeals filed by the assessee in ITA Nos.2703 & 2704/Chny/2025 are allowed.

Order pronounced on the 04th day of December, 2025, in Chennai.

Sd/-

(जगदीश)

(JAGADISH)

लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 04th December, 2025.

TLN

Sd/-

(एबी टी. वर्की)

(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**



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आदेश की प्रतिलिपि अग्रेषित / Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF