आयकर अपीलीय अधिकरण, विशाखापटणम पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Visakhapatnam Bench, Visakhapatnam

Before Shri Ravish Sood, Judicial Member
and
Shri Balakrishnan S., Accountant Member

आ.अपी.सं /**ITA No.489/Viz/2025**
(निर्धारण वर्ष/Assessment Year: 2020-21)

Venkata Ramana Goda, Visakhapatnam. PAN: ABZPG3216A	Vs.	Assistant Commissioner of Income Tax, Circle-3(1), Visakhapatnam.
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Mrs. K. Hemalatha, CA	
राजस्व द्वारा/Revenue by:	Dr. Aparna Villuri, Sr. AR	
सुनवाई की तारीख/Date of Hearing:	17/11/2025	
घोषणा की तारीख/Date of Pronouncement:	05/12/2025	

आदेश / **ORDER**

PER. RAVISH SOOD, JM:

The present appeal filed by the assessee is directed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, dated 06/08/2025, which in turn arises from the order passed by the Assessing Officer under section 147 r.w.s 144B of the Income Tax Act, 1961 (for short, “the Act”), dated 08/03/2025. The

assessee has assailed the impugned order on the following grounds of appeal:

> "Grounds of appeal:
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> 1. That under the facts and circumstances of the case, the orders passed by the Commissioner of Income-tax (Appeals) (in short 'CIT(A)') u/s 250 of IT Act dated 06-08-2025, confirming the order passed by Assessing Officer (AO') uls. 147 r.w.s 1448 of the IT Act dt.08-03-2025, is not in accordance with the fact and provisions of law.
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> 2. The Leamed CIT(A) ought to have appreciated that the notice u/s 148 issued by the Jurisdictional Assessing officer (JAO') u/s 148 is invalid in terms of section 151A as per which notice u/s 148 shall be issued through automated allocation by National Faceless Assessing Officer ('NFAC') and this action of JAO rendered the entire re-assessment proceedings void-ab-initio.
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> **Ground challenging the addition made by Ld. AD regarding the alleged receipts from LIC (Rs. 1,11,20,502/-):**
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> 3. The Learned CIT(A) erred in confirming the action of Ld.AO in adding the entire receipts as reported by LIC in Form 26AS as assessee's income without considering the fact that the said proceeds are from keyman insurance policy taken by the company M/s ARDEE BUSINESS SERVICES PVT. LTD and hence the said proceeds are not taxable in assessee's hands.
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> 4. The Learned CIT(A) erred in not appreciating the fact that Ld. Assessing Officer. while treating the receipts reported by LIC as assessee's income, failed to consider that the maturity proceeds of the said keyman insurance policy were adjusted against the loan taken by M/s ARDEE BUSINESS SERVICES PVT. LTD and the interest that was overdue on such loan, which fact also indicates that the maturity / surrender value from the said policy entirely belong and pertain to the entity M/s ARDEE BUSINESS SERVICES PVT. LTD.
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> 5. The Learned CIT(A) erred in not considering the fact that though the said policy is nowhere connected to assessee, while filing the return in response to section 148 of the IT Act assessee has declared the amounts received in his bank account and the TDS credited under his PAN - as his income, in order to put a quietus, which amounts otherwise are not assessee's income.
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> 6. The Learned CIT(A) erred in rejecting assessee's contention that Ld.AO ought to have exercised his powers u/s 133(6) of the IT Act to obtain a clarity from LIC regarding the nature and details of the said

keyman insurance policy before assessing the same in assessee's hands.

7. The Learned CIT(A), while adjudicating the issue, erred in observing that the loan adjustments of M/s ARDEE BUSINESS SERVICES PVT. LTD against the keyman. Insurance surrender proceeds 'remains unsubstantiated, which is contrary to the fact emanating from the mad correspondence sent by LIC Officials to assessee in this regard.

8. The Learned CIT(A) erred in confirming the addition made by L.AD by way of capital gains from sale of agricultural land of Rs.61,60,000/- without considering the documents placed on record by assessee.

9. The Learned CIT(A) ought to have considered the fact the impugned property that was sold was a rural agricultural land and not a capital asset as defined u/s 2(14)(iii) of the IT Act, hence the question of capital gains does not arise.

10. The Learned CIT(A) failed to appreciate the issue being sale of rural agricultural land which was claimed by the assessee as not taxable, instead dismissed this issue based on his observation that assessee failed to furnish proof of crop cultivation, yield records, and so on, which cannot be a basis for determining the nature of land whether as agricultural or non-agricultural.

11. The Learned CIT(A) erred in confirming the interest under Section 234A and Section 234B as consequential to the additions made.

12. For these and such other grounds, that may be urged at the time of hearing of subject appeal, the appellant prays before the Hon'ble ITAT that the Assessment be quashed or directions be given to the Ld.AO to delete the additions made or provide such other relief as the Hon'ble Tribunal may deem fit."

2. Succinctly stated, the AO based on information gathered from Insight Portal under the category of RMS (Risk Management Strategy) for the subject year, i.e., AY 2020-21, which revealed that an amount of Rs.1,11,20,502/- was paid/credited to the assessee by Life Insurance Corporation (LIC) and tax was deducted at source on the same under section 194DA of the Act, initiated proceedings under section 147 of the

Act. Order under section 148A(d) of the Act, dated 18/03/2024, was passed by the DCIT/ACIT- Circle 3(1), Visakhapatnam, i.e., the Jurisdictional Assessing Officer ("JAO"). Thereafter, the JAO issued notice under section 148 of the Act, dated 20/03/2024. In response, the assessee filed his return of income declaring an income of Rs. 30,82,780/- on 18/04/2024.

3. During the course of the assessment proceedings, the AO observed that the assessee had not filed his return of income for the subject year under section 139(1) of the Act. It was observed by him that the assessee had filed his return of income under section 139(8A) of the Act, wherein he had failed to disclose the aforesaid amount of Rs. 1,11,20,502/- that was received by him from LIC.

4. On a perusal of the record, the AO observed that the assessee in his return of income filed under section 148 of the Act had, though not disclosed the amount received/credited in his account from LIC, but had claimed the credit of TDS of Rs. 5,56,025/- that was deducted on the subject amount under section 194BA of the Act. On being queried, it was the claim of the assessee that he had received the maturity amount from LIC of only Rs. 32,30,707/-, and provided the bifurcated details of the same. However, the AO did not find favour with the aforesaid explanation

of the assessee. It was observed by him that as LIC had withheld an amount of Rs. 5,56,025/- as tax at Source (TDS) on the total amount of Rs. 1,11,20,502/- which was clearly mentioned in Form-26AS, and the credit of the said amount of tax deducted at source was claimed by the assessee in his return of income filed in response to notice under section 148 of the Act, therefore, the entire amount so credited/received from LIC was to be treated as his income from other sources. The AO, observing that the assessee in his return of income filed under section 148 of the Act, had offered for tax the LIC receipts of Rs. 32,30,707/- (out of Rs. 1,11,20,502/-), therefore, included the balance amount of Rs. 78,89,795/- in his total income for the subject year.

5. Also, the AO observed that information available on record revealed that the assessee had sold an immovable property for a consideration of Rs. 61,60,000/- during the subject year. Although the AO had called upon the assessee to furnish the requisite details, but he failed to respond to the notice. The AO, observing that the assessee had not disclosed the capital gains on the aforementioned sale transaction of the immovable property, thus, in the absence of the requisite details, held the entire amount of the sale consideration of Rs. 61.60 lakhs (supra) as his income under the head “Short term capital gain” (STCG) and added the same to his income.

6. Accordingly, the AO, after making the aforementioned additions, vide his order passed under section 147 r.w.s 144B of the Act, dated 08/03/2025, determined the income of the assessee at Rs. 1,71,32,575/-

7. Aggrieved, the assessee carried the matter in appeal before the CIT(A) but without success. Ostensibly, the assessee had before the CIT(A) assailed the validity of the jurisdiction that was assumed by the Assessment Unit, Income-tax Department, i.e., the Faceless Assessing Officer (FAO) for framing the assessment, for the reason that as per the "e-Assessment of Income Escaping Assessment Scheme, 2022" which was effective from 27/03/2022, the notices under section 148 of the Act were statutorily required to be issued through automated allocation by the National Faceless Assessment Centre (NFAC), but as in the present case the same was issued by the Jurisdictional Assessing Officer (JAO), thus, the it had rendered the reassessment proceedings as void-ab-initio due to non-compliance with the statutory procedure. Ostensibly, the assessee to support his aforesaid contention had relied upon the judgment of the Hon'ble High Court of Telangana in the case of Kankanala Ravindra Reddy vs. ITO (2023) 156 taxmann.com 178 (Telangana) and that of the Hon'ble Bombay High Court in the case of Hexaware Technologies Limited v. Assistant Commissioner of Income

Tax & Ors. [2024] 163 taxmann.com 396 (Bombay), to fortify his claim that the reassessment initiated by the JAO after notification of the "e-Assessment of Income Escaping Assessment Scheme, 2022" was invalid in law and, thus, on the said basis had sought for annulling of the reassessment proceedings and the consequential assessment order passed by the Assessment Unit, Income-tax Department, i.e., the Faceless Assessing Officer (FAO) under section 147 r.w.s 144B of the Act, dated 08/03/2025, but the CIT(A) did not find favour with the same.

8. Apart from that, we find that the CIT(A) did not find any infirmity in the view taken by the AO regarding both the additions that were made by him, viz., (i) addition of the amount received from LIC on surrender of Keyman Insurance Policy (as reflected in Form-26AS): Rs.78,89,795/-; and (ii) addition under the head short term capital gains (STCG): Rs.61,60,000/-.

9. The assessee, being aggrieved with the order of the CIT(A) has carried the matter in appeal before us.

10. We have heard the Learned Authorized Representatives of both parties, perused the orders of the lower authorities and the material available on record, as well as considered the judicial pronouncements

that have been pressed into service by the Learned Authorized Representative of the assessee in support of her contentions.

11. Mrs. K. Hemaltha, Chartered Accountant, the Learned Authorized Representative (for short, “Ld.AR”) for the assessee at the threshold of hearing of the appeal, submitted that both the impugned order passed under Section 148A(d) of the Act, dated 18/03/2024 and Notice under Section 148 of the Act, dated 20/03/2024 issued by the Jurisdictional Assessing Officer (JAO), i.e., outside the faceless mechanism as provided under the provisions of Section 144(b) read with Section 151A and the "E-Assessment Scheme of Income Escaping Assessment Scheme, 2022" notified by the Government of India on 29.03.2022 under Section 151 A, are bad and illegal. Summing up her contention, the Ld. AR submitted that after the introduction of the "Faceless Jurisdiction of the Income Tax Authorities Scheme, 2022" and the "e-Assessment of Income Escaping Assessment Scheme, 2022", it is only the “Faceless Assessing Officer” (FAO) who can issue the notice under Section 148 of the Act and not the “Jurisdictional Assessing Officer” (JAO), and the assessments are statutorily required to be as per the prescribed faceless mechanism provided under the provisions of Section 144(b) r.w Section 151A of the Act. Elaborating further on her contention, the Ld. AR submitted that as the AO had invalidly assumed

jurisdiction and framed the impugned assessment, therefore, the same cannot be sustained and is liable to be struck down for want of a valid assumption of jurisdiction on his part. The Ld. AR submitted that the subject issue is squarely covered by the judgment of the **Hon'ble Jurisdictional High Court of Andhra Pradesh** in the case of **Mr. Kishan Kumar Thotakura & Ors. Vs. The Assistant Commissioner of Income-tax, Writ Petition No. 14681/2023 & Ors, dated 28.10.2025,** and that of the **Hon'ble High Court of Telangana** in the case of **Kankanala Ravindra Reddy Vs. ITO & 2 Others, Writ Petition Nos 25903 of 2023, dated 14.09.2023.**

12. Per Contra, the Ld. Senior Departmental Representative (Ld. Sr. DR), submitted that as the assessee within the specified time period contemplated under sub-section (3) of Section 124 of the Act, i.e. within a period of one month from the date on which the said notice was served upon him had not called in question the jurisdiction of the DCIT/ACIT, Circle-3(1), Visakhapatnam (JAO) who had issued Notice under Section 148 of the Act, dated 20/03/2024, therefore, he was precluded from assailing the same for the first time before the Tribunal. The Ld. Sr. DR to support her contention had relied on the judgment of the Hon'ble Supreme Court in the case of Deputy Commissioner of Income-tax (Exemption) v. Kalinga Institute of Industrial Technology [2023] 454 ITR

582 (SC). The Ld. Sr. DR submitted that the Hon'ble Apex Court in its aforesaid judgment had held that as per the mandate of Section 124(3) of the Act, an assessee is precluded from questioning the jurisdiction of the AO, if he does not do so within 30 days of receipt of notice. The Ld. Sr. DR submitted that in the present case, the assessee as required per the mandate of Section 124(3) of the Act, had within the prescribed time period not called in question the jurisdiction of the DCIT/ACIT, Circle-3(1), Visakhapatnam, i.e., the JAO, who had issued Notice under Section 148 of the Act, dated 20/03/2024, therefore, he cannot now be permitted to object to the same for the very first time before the Tribunal.

13. Rebutting the Ld. Sr. DR's contention, Mrs. K. Hemalatha, Ld. AR submitted that, as in the present case, the assessee was challenging the inherent lack of jurisdiction with the JAO to initiate the impugned proceedings under Section 148A of the Act, and also issue notice under Section 148 of the Act, and was not questioning the jurisdiction as provided in Section 120(3) of the Act, which was the subject matter before the Hon'ble Apex Court in the case of Commissioner of Income-tax (Exemption) vs. Kalinga Institute of Industrial Technology (supra), therefore, the said judgment being distinguishable both on facts and the issue therein involved will not carry the case of the revenue any further.

14. We have thoughtfully considered the contentions advanced by the Ld. Authorized Representatives of both parties regarding the validity of the jurisdiction assumed by the FAO for framing the assessment vide his order passed under Section 147 r.w.s 144B of the Act, dated 08/03/2025 based on the order passed under Section 148A(d) of the Act, dated 18/03/2024 and Notice issued under Section 148 of the Act, dated 20/03/2024 by the DCIT/ACIT, Circle 3(1), Visakhapatnam.

15. We shall first deal with the Ld. DR's contention that as the assessee had within the specified time period contemplated under sub-section (3) of Section 124 of the Act, i.e., within a period of one month from the date on which the said notice was served upon him not called in question the jurisdiction of the DCIT/ACIT, Circle-3(1), Visakhapatnam i.e., the JAO, who had issued Notice u/s 148 of the Act, dated 20/03/2024, therefore, he was precluded from assailing the same for the first time before the Tribunal.

16. Before proceeding further, it would be relevant to cull out Section 124(3) of the Act, which reads as under:

> "124 (1) xxxxxxxx
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> (2) xxxxxxx
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> (3) No person shall be entitled to call in question the jurisdiction of an Assessing Officer—

> (a) where he has made a return under sub-section (1) of section 115WD or under sub-section (1) of section 139, after the expiry of one month from the date on which he was served with a notice under subsection (1) of section 142 or sub-section (2) of section 115WE or subsection (2) of section 143 or after the completion of the assessment, whichever is earlier;
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> (b) where he has made no such return, after the expiry of the time allowed by the notice under sub-section (2) of section 115WD or subsection (1) of section 142 or under sub-section (1) of section 115WH or under section 148 for the making of the return or by the notice under the first proviso to section 115WF or under the first proviso to section 144 to show cause why the assessment should not be completed to the best of the judgment of the Assessing Officer, whichever is earlier;
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> (c) where an action has been taken under section 132 or section 132A, after the expiry of one month from the date on which he was served with a notice under sub-section (1) of section 153A or sub-section (2) of section 153C or after the completion of the assessment, whichever is earlier."

17. Having given a thoughtful consideration to the aforesaid claim of the ld. DR in the backdrop of the mandate of Sub-section (3) of Section 124 of the Act, we are unable to fathom that as to how the restriction therein contemplated, which is confined to questioning the jurisdiction of an Assessing Officer, can have any bearing on the claim of the present assessee before us, who has assailed the validity of the assessment order passed under Section 147 r.w.s 144B of the Act, dated 08/03/2025 by the Assessment Unit, Income-Tax Department, i.e., Faceless Assessing Officer (FAO) based on the Notice u/s 148 of the Act, dated 20/03/2024 issued by the DCIT/ACIT, Circle-3(1), Visakhapatnam, i.e.,

JAO who inherently lacked the jurisdiction for both initiating the proceedings u/s 148A of the Act and issuing Notice u/s 148 of the Act.

18. Before dealing with the subject issue, we deem it apposite to look into the fabric of Section 124 of the Act. On a careful perusal of Section 124 of the Act, it transpires that the same apparently deals with the issue of "territorial jurisdiction" of an Assessing Officer. Ostensibly, sub-section (1) of Section 124 contemplates vesting with the AO of jurisdiction over a specified area by virtue of any direction or order issued under sub-section (1) and sub-section (2) of Section 120 of the Act. Sub-section (2) of Section 124 contemplates the manner in which any controversy regarding the territorial jurisdiction of an AO is to be resolved. Apropos sub-section (3) of Section 124 of the Act, the same places a restriction upon an assessee to call in question the jurisdiction of the A.O where he had initially not raised such objection within a period of one month from the date on which he was served with a notice under sub-section (1) of Section 142 or sub-section (2) of Section 143 or Section 148 or sub-section (1) of Section 153A or sub-section (2) of Section 153C. To sum up, the obligation cast upon an assessee to call in question the jurisdiction of the A.O as per the mandate of sub-section (3) of Section 124 is confined to a case where he objects to the assumption of jurisdiction by the A.O, and not otherwise.

19. At this stage, we may herein refer to certain judicial pronouncements that had in the past held the field on the aforesaid issue. The **Hon'ble High Court of Bombay** in the case of **Peter Vaz & Ors. Vs, CIT & Ors. (2021) 436 ITR 616(Bom)** and the **Hon'ble High Court of Gujarat** in the case of **Commissioner of Income-tax v. Ramesh D. Patel [2014] 42 taxmann.com 540/225 Taxman 411/362 ITR 492 (Gujarat)**, had held that as Section 124 of the Act pertains to territorial jurisdiction vested with an AO under sub-section (1) or sub-section (2) of Section 120, therefore, the provisions of sub-section (3) of Section 124 which puts a restriction on an assessee to object to the validity of the jurisdiction of an A.O would get triggered only in a case where the dispute of the assessee is with respect to the territorial jurisdiction and have no relevance in so far his inherent jurisdiction for framing the assessment is concerned. Further, the **Hon'ble High Court of Bombay** in the case of **Bansilal B. Raisoni & Sons v. Assistant Commissioner of Income Tax [2019] 101 taxmann.com 20/260 Taxman 281 (Bombay)** had, inter alia, observed that the time limit for objecting to the jurisdiction of the Assessing Officer prescribed under sub-section (3) of Section 124 has a relation to the Assessing Officer's territorial jurisdiction. It was further observed that the time limit prescribed would not apply to a case where the assessee contends that

the action of the Assessing Officer is without authority of law and, therefore, wholly without jurisdiction. Also, the **Hon'ble High Court of Bombay** in the case of **Commissioner of Income tax v. Lalitkumar Bardia [2017] 84 taxmann.com 213/[2018] 404 ITR 63 (Bombay)** had addressed the contention of the department that where the assessee had not objected to the jurisdiction within the time prescribed under sub-section (3) of Section 124 of the Act, then, having waived its said right, it was barred from raising the issue of jurisdiction after having participated in the assessment proceedings. The Hon'ble High Court had observed that the waiver can only be of one's right or privilege, but non-exercise of the same will not bestow jurisdiction on a person who inherently lacks jurisdiction. Therefore, the principle of waiver cannot be invoked to confer jurisdiction on an Officer who is acting under the Act when he does not have jurisdiction. The Hon'ble High Court, while concluding as hereinabove, had relied on the judgment of the **Hon'ble Supreme Court** in the case of **Kanwar Singh Saini v. High Court of Delhi (2012) 4 SCC 307**. The Hon'ble Apex Court in its aforesaid judgment, had held that it is the settled legal proposition that conferment of jurisdiction is a legislative function and it can neither be conferred with the consent of the parties nor by a superior court. The Hon'ble Apex Court further observed that if the court passes an order or decree having

no jurisdiction over the matter, it would amount to a nullity as the matter goes to the roots of the cause. Also, the Hon'ble Apex Court clarified that an issue can be raised at any belated stage of the proceedings, including in appeal or execution. Elaborating further, it was observed by the Hon'ble Apex Court that the finding of a court or tribunal becomes irrelevant and unenforceable and inexecutable once the forum is found to have no jurisdiction. It was further observed by the Hon'ble Apex Court that the acquiescence of a party equally should not be permitted to defeat the legislative animation, and the court cannot derive jurisdiction apart from the statute. For the sake of clarity, the observations of the Hon'ble Apex Court in the case of Kanwar Singh Saini (supra) are culled out as under:

> "22. **There can be no dispute regarding the settled legal proposition that conferment of jurisdiction is a legislative function and it can neither be conferred with the consent of the parties nor by a superior court, and if the court passes order/decree having no jurisdiction over the matter, it would amount to a nullity as the matter goes to the roots of the cause**. **Such an issue can be raised at any belated stage of the proceedings including in appeal or execution. The finding of a court or tribunal becomes irrelevant and unenforceable/inexecutable once the forum is found to have no jurisdiction. Acquiescence of a party equally should not be permitted to defeat the legislative animation. The court cannot derive jurisdiction apart from the statute**. (Vide United Commercial Bank Ltd v. Workmen, Nai Bahu v. Lala Ramnarayan, Natraj Studios (P) Ltd. v. Navrang Studios, Sardar Hasan Siddiqui v. STAT, A.R. Antulay v. R.S. Nayak, Union of India v. Deoki Nandan Aggarwal, Karnal Improvement Trust v. Parkash Wanti, U.P. Rajkiya Nirman Nigam Ltd. v. Indure (P) Ltd., State of Gujarat v. Rajesh Kumar Chimanlal Barot, Kesar Singh v. Sadhu, Kondiba Dagadu Kadam v. Savitribai Sopan Gujar and CCE v. Flock (India) (P) Ltd.)"

(emphasis supplied by us)

20. We further find that the **Hon'ble Supreme Court** in its recent order passed in the case of **Union of India v. Rajeev Bansal [2024] 167 taxmann.com 70/301 Taxman 238/469 ITR 46 (SC)** had, inter alia, observed that the order passed without jurisdiction is nullity. It was further observed that if a statute expressly confers a power or imposes a duty on a particular authority, then such power or duty must be exercised or performed by that authority itself. The Hon'ble Apex Court had further observed that any exercise of power by statutory authorities inconsistent with the statutory prescription is invalid. Apart from that, it was observed that as there cannot be any waiver of a statutory requirement or provision that goes to the root of the jurisdiction of assessment, therefore, any consequential order passed or action taken will be invalid and without jurisdiction. For the sake of clarity, the observations of the Hon'ble Apex Court are culled out as under:

> "30. **If a statute expressly confers a power or imposes a duty on a particular authority, then such power or duty must be exercised or performed by that authority itself**. (Dr. Premachandran Keezhoth v. Chancellor, Kannur University). **Further, when a statute vests certain power in an authority to be exercised in a particular manner, then that authority has to exercise its power following the prescribed manner (CIT v. Anjum M.H. Ghaswala; State of Uttar Pradesh v. Singhara Singh). Any exercise of power by statutory authorities inconsistent with the statutory prescription is invalid.....**
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> *** ** *** *** ** *** *** ** ***

> 32. A statutory authority may lack jurisdiction if it does not fulfil the preliminary conditions laid down under the statute, which are necessary to the exercise of its jurisdiction. (Chhotobhai Jethabhai Patel and Co. V. Industrial Court, Maharashtra Nagpur Bench).**There cannot be any waiver of a statutory requirement or provision that goes to the root of the jurisdiction of assessment.** (Superintendent of Taxes v. Onkarmal Nathmal Trust). **An order passed without jurisdiction is a nullity. Any consequential order passed or action taken will also be invalid and without jurisdiction**. (Dwarka Prasad Agrawal V. B.D. Agrawal). Thus, the power of assessing officers to reassess is limited and based on the fulfilment of certain preconditions. (CIT v. Kelvinator of India Ltd.)"
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> **(emphasis supplied by us)**

21. We shall now advert to the judgment of the **Hon'ble Supreme Court**, in the case of **Deputy Commissioner of Income-tax (Exemption) v. Kalinga Institute of Industrial Technology [2023] 454 ITR 582 (SC)**, that has been relied upon by the Ld. DR to impress upon us that as the assessee in the present case before us, had, within the time allowed by the notice issued u/s 148 of the Act, dated 20/03/2024, i.e., period of 30 days, not called in question the jurisdiction of the DCIT/ACIT, Circle-3(1), Visakhapatnam, i.e., JAO, based on which the Assessment Unit, Income-Tax Department, i.e., Faceless Assessing Officer (FAO) had thereafter framed the assessment vide his order passed under Section 147 r.w.s 144B of the Act, dated 08/03/2025, therefore, as per the mandate of sub-section (3) of Section 124 of the

Act, he cannot in the course of present proceedings before us object to the validity of the jurisdiction so assumed.

22. It would be relevant to cull out the facts that were involved in the case of Deputy Commissioner of Income-tax (Exemption) v. Kalinga Institute of Industrial Technology (supra), as under:

(i). assessee had in the aforesaid case challenged the notice issued u/s.143(2) of the Act by the ACIT, Corporate Circle-1(2), Bhuwaneshwar, as being without jurisdiction;

(ii). jurisdiction over the case of the assessee that was vested with ACIT, Corporate Circle-1(2), Bhuwaneshwar, was, after the filing of the return of income by the assessee, changed, and got vested with the Jt. CIT(OSD) (Exemption), Bhuwaneshwar;

(iii). it was the assessee's case that, as the jurisdiction to issue notice under Section 143(2) of the Act in its case was with the Jt. CIT (OSD)(Exemption), Bhuwaneshwar, therefore, the impugned notice issued u/s. 143(2) of the Act by the ACIT, Corporate Circle-1(2), Bhuwaneshwar was without jurisdiction and, thus, liable to be quashed;

(iv). Hon'ble High Court of Orissa, observing that the jurisdiction to issue notice u/s. 143(2) of the Act in the case of the assessee remained

with the Jt. CIT(OSD)(Exemption), Bhuwaneshwar, therefore, held the impugned notice issued u/s. 143(2) of the Act by the ACIT, Corporate Circle-1(2), Bhuwaneshwar, as having been issued without jurisdiction and quashed the same.

23. On Special Leave Petition (SLP) filed by the revenue, the Hon'ble Apex Court had, inter alia, observed that as the record revealed that the assessee had, participated in the assessment proceedings and not questioned the jurisdiction of the AO, there was no justification for the High Court to have set-aside the notice issued u/s.143(2) of the Act by the ACIT, Corporate Circle-1(2), Bhuwaneshwar. Elaborating on the scope of Section 124(3)(a) of the Act, the Hon'ble Apex Court observed that the same precluded the assessee from questioning the jurisdiction of the AO if he does not do so within 30 days of receipt of notice u/s. 142(1) of the Act.

24. Before proceeding further, it would be relevant to point out that a plain reading of sub-section (3) of Section 120 of the Act reveals that the "Jurisdiction" vested with the Income-tax Authorities is classified into four categories, viz. (i) territorial area; (ii) persons or classes of persons; (iii) income or classes of income; or (iv) cases or classes of cases. The assessee in the present case before us, has not assailed the vesting of

jurisdiction with the DCIT/ACIT, Circle-3(1), Visakhapatnam, i.e., JAO based on either of the aforesaid four categories, but has rather challenged the lack of inherent jurisdiction with the Jurisdictional Assessing Officer (JAO), both for initiating the impugned proceedings under Section 148A of the Act, as well as issuing the consequential notice under Section 148 of the Act. In our view, as after the introduction of the "Faceless Jurisdiction of the Income Tax Authorities Scheme, 2022" and the "e-Assessment of Income Escaping Assessment Scheme, 2022", it is only the FAO which can issue the notice under Section 148 of the Act and not the JAO, and the assessments are statutorily required to be as per the prescribed faceless mechanism provided under the provisions of Section 144(b) r.w Section 151A of the Act, therefore, the challenge by the assessee to the inherent lack of jurisdiction with the JAO to initiate the impugned proceedings under Section 148A of the Act, as well as issue the notice under Section 148 of the Act will not be saved by the judgment of the Hon'ble Supreme Court in Commissioner of Income-tax (Exemption) v. Kalinga Institute of Industrial Technology (supra), which being distinguishable on facts will not assist the case of the revenue before us.

25. Coming back to the core issue involved in the present appeal, i.e., the validity of the assessment order passed under Section 147 r.w.s

144B of the Act, dated 08/03/2025 by the Assessment Unit, Income-Tax Department, i.e., Faceless Assessing Officer (FAO), based on the order passed u/s 148A(d), dated 18/03/2024 and Notice u/s 148 of the Act, dated 20/03/2024, issued by the DCIT/ACIT, Circle-3(1), Visakhapatnam, i.e., the JAO, we find that the same as on date is squarely covered by the Judgment of the **Hon'ble Jurisdictional High Court of Andhra Pradesh** in the case of **Mr. Kishan Kumar Thotakura & Ors. Vs. The Assistant Commissioner of Income-tax, Writ Petition No. 14681/2023 & Ors, dated 28.10.2025.** The Hon'ble High Court in its aforesaid order had held that after the formulation of the "e-Assessment of Income Escaping Assessment Scheme, 2022", the notice under Section 148 of the Act can only be issued by the FAO and not by the JAO. For the sake of clarity, the observations of the Hon'ble High Court are culled out as under:

> "7. Discussion and findings:
>
> (A). The Division Bench of the Bombay High Court in the case of Prakash Pandurang Patil Vs. Income Tax Officer, Ward 5, Panvel & Others by following the judgment of a Division Bench of the High Court of Bombay, in the case of Hexaware Technologies Limited Vs. Assistant Commissioner of Income Tax & 4 Ors 1 had considered the effect and interpretation of the Section 151 (A) of the Income Tax as extracted herein under:
>
> > "3. It is apparent that the impugned notice dated 5 April, 2022 issued under Section 148 of the Act and the order of the same date under Section 148A(d) of the Act are issued by the Jurisdictional Assessing Officer ("JAO") and not under the

> mandatory faceless mechanism as per the provisions of Section 151A of the Act. For a notice to be validly issued under Section 148 of the Act, the respondent No.2 would be required to comply with the provisions of Section 151A of the Act, so as to adhere to the faceless mechanism, as notified by the Central Government by notification dated 29 March 2022. A Division Bench of this Court in the case of Hexaware Technologies Limited Vs. Assistant Commissioner of Income Tax & 4 Ors 2 had considered the effect and interpretation of the said provision. The relevant extract of the said decision reads thus:-
>
> 35. Further, in our view, there is no question of concurrent jurisdiction of the JAO and the FAO for issuance of notice under Section 148 of the Act or even for passing assessment or reassessment order. When specific jurisdiction has been assigned to either the JAO or the FAO in the scheme dated 29.03.2022, then it is to the exclusion of the other.

To take any other view in the matter, would not only result in chaos but also render the whole faceless proceedings redundant. If the argument of Revenue is to be accepted, then even when notices are issued by the FAO, it would be open to an assessee to make submission before the JAO and vice versa, which is clearly not contemplated in the Act.

Therefore, there is no question of concurrent jurisdiction of both FAO or the JAO with respect to the issuance of notice under Section 148 of the Act. The Scheme dated 29th March 2022 in paragraph 3 clearly provides that the issuance of notice "shall be through automated allocation" which means that the same is mandatory and is required to be followed by the Department and does not give any discretion to the Department to choose whether to follow it or not. That automated allocation is defined in paragraph 2

(b) of the Scheme to mean 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. Therefore, it means that the case can be allocated randomly to any officer who would then have jurisdiction to issue the notice under Section 148 of the Act, It is not the case of respondent No.1 that respondent No.1 was the random officer who had been allocated jurisdiction.

36. With respect to the argument of the Revenue, i.e., the notification dated 29th March, 2022 provides that the Scheme so framed is applicable only 'to the extent' provided in Section 144B of the Act

and Section 144B of the Act does not refer to issuance of notice under Section 148 of the Act and hence, the notice cannot be issued by the FAO as per the said Scheme, we express our view as follows:-

Section 151A of the Act itself contemplates formulation of Scheme for both assessment, reassessment or re-computation under Section 147 as well as for issuance of notice under Section 148 of the Act. Therefore, the Scheme framed by the CBDT, which covers both the aforesaid aspect of the provisions of Section 151A of the Act cannot be said to be applicable only for one aspect, i.e., proceedings post the issue of notice under Section 148 of the Act being assessment, reassessment or recomputation under Section 147 of the Act and inapplicable to the issuance of notice under Section 148 of the Act. The Scheme is clearly applicable for issuance of notice under Section 148 of the Act and accordingly, it is only the FAO which can issue the notice under Section 148 of the Act and not the JAO. The argument advanced by respondent would render clause 3(b) of the Scheme otiose and to be ignored or contravened, as according to respondent, even though the Scheme specifically provides for issuance of notice under Section 148 of the Act in a faceless manner, no notice is required to be issued under Section 148 of the Act in a faceless manner. In such a situation, not only clause 3(b) but also the first two lines below clause 3(b) would be otiose, as it deals with the aspect of issuance of notice under Section 148 of the Act. Respondents, being an authority subordinate to the CBDT, and which has been laid before both House of Parliament is partly otiose and inapplicable....."

37. When an authority acts contrary to law, the said act of the Authority is required to be quashed and set aside as invalid and bad in law and the person seeking to quash such an action is not required to establish prejudice from the said Act. An act which is done by an authority contrary to the provisions of the statue, itself causes prejudice to assessee. All assessees are entitled to be assessed as per law and by following the procedure prescribed by law.

Therefore, when the Income Tax Authority proposes to take action against an assessee without following the due process of law, the said action itself results in a prejudice to assessee. Therefore, there is no question of petitioner having to prove further prejudice before arguing the invalidity of the notice.

4. It is hence apparent that in the present case, the impugned order and the notices issued by respondent no.1 are not in compliance with the Scheme notified by the Central Government implementing the provisions of Section 151A of the Act. The Scheme, as tabled before

the Parliament as per the requirements of the said provision, is in the nature of a subordinate legislation, which governs the conduct of proceedings under Section 148A as well as Section 148 of the Act. Thus, in view of the explicit declaration of the law in Hexaware Technologies Limited (supra), the grievance of the petitioner- assessee insofar as it relates to an invalid issuance of the impugned order and the notice is required to be accepted.

5. Learned Counsel for the parties agree that in this view of the matter, the proceedings initiated under Section 148 of the Act would not be sustainable and are rendered invalid in view of the judgment rendered in Hexaware Technologies Limited (supra)." (B). Further, it is very apt to refer the judgment of the High Court of Telangana in the case of Kanakanala Ravindra Reddy Vs. Income Tax Officer 3 , 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.

(C). It is also to be noted that the same issue had also been decided by various High Courts in India i.e., Gauhati High Court in the case of Ram Narayan Sah Vs. Union of India 4, Punjab and Haryana High Court in the case of Jatinder Singh Banngu Vs. Union of India5 and Telangana High Court in the case of Sri Venkataramana Reddy Patloola Vs. Deputy Commissioner of Income Tax6. Some views have been taken by the Division Bench of Calcutta High Court in the case of Giridhar Gopal Dalmia Vs.Union of India Vs. Ors7, (2023) 156 taxmann.com 178 (Telangana) (2024) 156 taxmann.com 478 (Gauhati) (2024) 165 taxmann.com 115(Punjab & Haryana) (2024) 167 taxmann.com 411 (Telangana) M.A.T. 1690 of 2023 decided on 25.09.2024. In these decisions, the various High Courts allowed the Writ Petitions in favour of the assessee in so far as the issue of jurisdiction is concerned.

(D). Admittedly, the Supreme Court has upheld the decision of the Bombay High Court in the case of Prakash Pandurang Patil Vs. Income Tax Officer, Ward 5 Panvel & Ors in S.L.P.(Civil) Diary No.39689/2025, dated 18.08.2025, wherein, the Bombay High Court has allowed the said Writ Petition by following the judgment of the Division Bench of the Bombay High Court in the case of Hexaware Technologies Limited Vs. Assistant Commissioner of Income Tax & 4 Ors. In view of the above factual position, we are of the considered view that the issue involved in the present batch of Writ Petitions is no more res integra.

(E). Considering the background in notifying the (E-Assessment Scheme of Income Escaping Assessment Scheme, 2022) notified by the Government of India on 29.03.2022, and in the light of the decisions of various High Courts stated supra and upon careful consideration of the contentions raised by the learned counsel appearing on either side, we hold that the impugned notices and orders which have been issued by the Jurisdictional Assessing Officer, or outside the faceless mechanism as provided under the provisions of Section 144 (b) read with Section 151 A and the "E-Assessment Scheme of Income Escaping Assessment Scheme, 2022" notified by the Government of India on 29.03.2022 under Section 151 A, is bad and illegal. It is made clear that the Jurisdictional Assessing Officer ("JAO") had no jurisdiction to issue the impugned orders/notices.

(F). In view of the foregoing reasons, all these Writ Petitions are to be allowed in favour of the petitioners, by setting aside the impugned notices/orders.

8. Accordingly, these Writ Petitions are allowed.

(i) Consequently, the impugned notices/orders issued under Sections 148-A(b), 148-A(d) and 148 of the Income Tax Act, 1961, in all these Writ Petitions, are hereby set-aside.

(ii) The consequential orders, if any, shall stand set-aside.

9. There shall be no order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed."

We, thus, respectfully follow the judgment of the Hon'ble Jurisdictional High Court in the case of Mr. Kishan Kumar Thotakura & Ors. Vs. The Assistant Commissioner of Income-tax (supra), and on the same terms hold the impugned orders and notices issued by the Jurisdictional Assessing Officer (JAO), i.e., outside the faceless mechanism as provided in Section 144(b) r.w Section 151A and the "E-Assessment

Scheme of Income Escaping Assessment Scheme, 2022" notified by the Government of India on 29.03.2022 under Section 151A of the Act, as bad and illegal. Consequent thereto, we herein set aside the order passed by the CIT(A), and quash the impugned assessment order passed by the Assessment Unit, Income-tax Department, i.e., FAO under Section 147 r.w.s 144B of the Act, dated 08/03/2025, for want of a valid assumption of jurisdiction on his part.

26. As we have quashed the assessment for want of valid assumption of jurisdiction by the Assessment Unit, Income-Tax Department, i.e., Faceless Assessing Officer (FAO) for framing the impugned assessment vide order passed under Section 147 r.w.s 144B of the Act, dated 08/03/2025, based on the Notice u/s 148 of the Act, dated 20/03/2024 issued by the DCIT/ACIT, Circle-3(1), Visakhapatnam, i.e., JAO, therefore, we refrain from adverting to the other grounds based on which the assessee has assailed the impugned order of the CIT(A) before us, which, thus, are left open.

27. Resultantly, the order passed by the Assessment Unit, Income-Tax Department, i.e., Faceless Assessing Officer (FAO) under Section 147 r.w.s 144B of the Act, dated 08/03/2025, is quashed for want of valid assumption of jurisdiction by him.

28. In the result, the appeal filed by the assessee is allowed in terms of our aforesaid observations.

Order pronounced in the open court on 05th December, 2025.

Sd/- **(BALAKRISHNAN S.)** **ACCOUNTANT MEMBER**	**Sd/-** **(RAVISH SOOD)** **JUDICIAL MEMBER**

Hyderabad,
Dated 05th December, 2025
**OKK / SPS*

Copy to:

S.No	Addresses
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2	Assistant Commissioner of Income Tax, Circle-3(1), Visakhapatnam.
3	The Pr. Commissioner of Income Tax, Visakhapatnam.
4	The DR, ITAT, Visakhapatnam Bench
5	Guard File

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Senior Private Secretary,
ITAT, Visakhapatnam.