

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.491/Viz/2025
(निर्धारण वर्ष/Assessment Year: 2016-17)

Satyanarayana Koduru, Krishna District. PAN:ALTPK1048C	Vs.	Income Tax Officer, Ward-1, Gudiwada.
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri C. Subrahmanyam, CA	
राजस्व द्वारा/Revenue by:	Dr. Aparna Villuri, Sr. AR	
सुनवाई की तारीख/Date of Hearing:	02/12/2025	
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 passed by the Commissioner of Income Tax, National Faceless Appeal Centre, Delhi, dated 01/07/2025, which in turn arises from the order passed by the Assessing Officer (for short, "AO") under Section 147 r.w.s 144 r.w.s 144B of the Income-tax Act, 1961 (for short, "Act"), dated 10/01/2024, for the Assessment Year 2016-17. The assessee has

assailed the impugned order of the CIT(Appeals) on the following grounds of appeal before us.

“1) That on the facts and circumstances of the case and in law, the orders passed u/s 147 r.w.s 144 r.w.s 144B of the IT Act, dt. 10.01.2024, as upheld by the Ld. CIT(A), NFAC vide orders passed u/s 250 of the IT Act, dt. 01.07.2025, are contrary to the facts of the case and the provisions of law.

2) The Ld. CIT(A) ought to have held that the reassessment proceedings initiated pursuant to the notices issued u/ss 148A(b), 148A(d), and 148 dt. 06.03.2023, 24.03.2023, and 28.03.2023 respectively, are contrary to the scheme of reassessment as envisaged u/s 144B and 151A of the Act. The jurisdictional Assessing Officer (ITO Ward 1, Gudiwada) lacked authority and competence in issuing the said notices. Consequently, the entire reassessment proceedings and the order passed thereunder are void ab initio and liable to be quashed.

3) The Ld. CIT(A) erred in confirming the addition of Rs.1,16,000/- made by the AO, which represents a portion of the stamp duty paid by the assessee.

4) The Ld. CIT(A) also erred in confirming the addition of Rs. 14,40,000/-Rs.5,00,000/- and Rs.3,75,000/- being the cash deposit in bank accounts, without properly appreciating the explanation and supporting documents furnished by the assessee regarding the source of the deposit.

5) For the foregoing reasons and such other grounds as may be urged at the time of hearing, the appellant respectfully prays that the orders passed by the Ld. CIT(A), to the extent they confirm the additions made by the Assessing Officer, be set aside and the said additions be deleted in the interest of justice, equity, and fair play.”

2. Succinctly stated, the AO gathered information that was flagged as per Risk Management Strategy formulated by the CBDT through ITBA that the assessee during the year had carried out substantial financial transactions, viz., (i) deposits with Allahabad Bank: Rs. 14,40,000/-; (ii) cash deposits with State Bank of Hyderabad: Rs.

15,00,000/-; (iii) cash deposits with State Bank of India, Branch Corporate Centre: Rs.14,03,000/-; (iv) receipt of salary from National Highway Authority of India (NHAI), Silchar: Rs.17,62,155/-; and (v) interest from State Bank of India: Rs.72,596/-. Apart from that, it was observed by the AO that the assessee during the subject year had purchased immovable property of Rs. 59,84,000/-. However, the AO observed that the assessee had failed to file his return of income for the year under consideration.

3. The AO, based on the aforesaid information, initiated proceedings under section 148 of the Act and passed an order under section 148A(d) of the Act, dated 28/03/2023. Thereafter, the AO issued notice under section 148 of the Act, dated 28/03/2023.

4. Thereafter, the AO vide his order under section 147 r.w.s 144 r.w.s 144B of the Act, dated 10/01/2024 assessed the income of the assessee at Rs.1,73,12,840/- after making certain additions, viz., (i) addition towards unexplained investment under section 69 pertaining to purchase of immovable property of Rs.59,84,000/-; (ii) addition under section 69 of the Act in respect of the registration charges and stamp duty of Rs.4,48,700/-; (iii) addition under section 69A of the Act of unexplained cash deposits in bank account: Rs.32,30,000/-; (iv) addition of undisclosed salary received from NHAI: Rs.17,62,155/-; (v)

addition of bank interest: Rs.1,95,140/-; and (vi) addition in respect of credit entries: Rs.56,92,845/-.

5. Aggrieved, the assessee carried the matter in appeal before the CIT(A), who partly allowed the appeal.

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

7. We have heard the Learned Authorised 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 Ld. AR to drive home his contentions.

8. Shri C. Subrahmanyam, CA, the Learned Authorised 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, and Notice under Section 148 of the Act, dated 28/03/2023 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 151A, 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 his 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**.

9. 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 ITO, Ward 1, Gudiwada (JAO) who had issued Notice under Section 148 of the Act, dated 28/03/2023, 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 ITO, Ward 1, Gudiwada, i.e., the JAO, who had issued Notice under Section 148 of the Act, dated 28/03/2023, therefore, he cannot now be permitted to object to the same for the very first time before the Tribunal.

10. Rebutting the Ld. Sr. DR's contention, Shri C. Subrahmanyam, 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.

11. 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 144 r.w.s 44B of the Act, dated 10/01/2024 based on the order passed under Section 148A(d) of the Act, and Notice issued under Section 148 of the Act, dated 28/03/2023 by the ITO, Ward 1, Gudiwada.

12. 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 ITO, Ward 1, Gudiwada i.e., the JAO, who had issued Notice u/s 148 of the Act, dated 28/03/2023, therefore, he was precluded from assailing the same for the first time before the Tribunal.

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

"124 (1) xxxxxxxx

(2) xxxxxxxx

(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;

(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;

(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."

14. Having given a thoughtful consideration to the aforesaid claim of the Id. 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 144 r.w.s 144B of the Act, dated 10/01/2024 by the Assessment Unit, Income-Tax Department, i.e., Faceless Assessing Officer (FAO) based on the Notice u/s 148 of the Act, dated 28/03/2023 issued by the ITO, Ward 1, Gudiwada, 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.

15. 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.

16. 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. Rasoni & 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/decrece 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)

17. 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.)"

(emphasis supplied by us)

18. 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 28/03/2023, i.e., period of 30 days, not called in question the jurisdiction of the ITO, Ward 1, Gudiwada, 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 144 r.w.s 144B of the Act, dated 10/01/2024, 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.

19. 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.

20. 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.

21. 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 ITO, Ward 1, Gudiwada, 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.

22. 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 144 r.w.s 144B of the Act, dated 10/01/2024 by the Assessment Unit, Income-Tax Department, i.e., Faceless Assessing Officer (FAO), based on the order passed u/s 148A(d) and Notice u/s 148 of the Act, dated 28/03/2023, issued by the ITO, Ward 1, Gudiwada, 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 statute, itself causes prejudice to assessee. All assesseees 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 India⁴, 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 144 r.w.s 144B of the Act, dated 10/01/2024, for want of a valid assumption of jurisdiction on his part.

23. 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 144 r.w.s 144B of the Act, dated 10/01/2024, based on the Notice u/s 148 of the Act, dated 28/03/2023 issued by the ITO, Ward 1, Gudiwada, 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.

24. Resultantly, the order passed by the Assessment Unit, Income-Tax Department, i.e., Faceless Assessing Officer (FAO) under Section 147 r.w.s 144 r.w.s 44B of the Act, dated 10/01/2024, is quashed for want of a valid assumption of jurisdiction by him.

25. 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
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Hyderabad,
Dated 05th December, 2025
OKK / SPS

Copy to:

S.No	Addresses
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1	Satyanarayana Koduru, 9-51, Gudiwada Road, Indira Nagar, Bapulapadu, Hanuman Junction, Krishna District, Andhra Pradesh-521105.
2	Income Tax Officer, Ward-1, Gudiwada.
3	The Pr. Commissioner of Income Tax,
4	The DR, ITAT, Visakhapatnam Bench
5	Guard File

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ITAT, VISAKHAPATNAM