

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष

BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI S.R.RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos.2853/Chny/2025
निर्धारणवर्ष/Assessment Year: 2020-21

Vijayakumar Balaji No. 11, Father Randy Street, R.S. Puram, Coimbatore – 541 002. [PAN: CMBPB 2558 M] (अपीलार्थी/Appellant)	v.	The ITO, Non-Corporate Ward-3(1), Coimbatore. (प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr.S. Girish Kumar Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Mr. Shiva Srinivas, CIT
सुनवाईकीतारीख/Date of Hearing	:	16.12.2025
घोषणाकीतारीख /Date of Pronouncement	:	07.01.2026

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal 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 28.07.2025 for the Assessment Year (hereinafter referred to as 'AY') 2020-21.

2. At the outset, the Ld.AR of the assessee brought to our notice that the appeal has been filed belatedly by '16' days and for condoning the delay, the assessee has filed an affidavit explaining the cause for the delay. Having gone through the contents of the same, we find that cause



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for delay was reasonable, so we excuse the same and proceed to hear the assessee's appeal.

3. The Ld.AR of the assessee drew our attention to grounds of appeal preferred by it wherein assessee has raised a legal issue challenging the notice issued by the Jurisdictional Assessing Officer (hereinafter referred to as 'JAO') u/s.148 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act ') dated 30.03.2024 as bad in law and hence according to him, consequent passing of the assessment order by the Assessing Officer also is null in the eyes of law.

4. According to the Ld.AR, the impugned notice issued u/s.148 dated 30.03.2024, is invalid and bad in law being issued by the Jurisdictional Assessing Officer 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



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Scheme'). And that the Scheme provides that (a) the 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 30.03.2024 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 Sureshbabu 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



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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. 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

5. 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

6. 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 Sabhik Das Non-Corp Ward (3) 1 CBE, had issued notice u/s.148 of the Act on 30.03.2024 [a copy of which has been placed before us], and



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pursuant to it, reopened the assessment for AY 2020-21 u/s.147 of the Act and thereafter, the Assessment Unit Income Tax Department passed the re/assessment order on 22.01.2025 making certain additions. The action of JAO issuing impugned notice dated 30.03.2024 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 it was issued by JAO/ Shri Sabhik Das, Non-Corp Ward (3) 1 CBE, thereafter, the Assessment Unit Income Tax Department is noted to have framed the assessment order on 22.01.2025 making certain additions.

7. 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.

8. Since the assessee has raised legal issue against the impugned action of the JAO issuing notice u/s.148 of the Act dated 30.03.2024, we will decide it first.

9. 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 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



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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.

10. 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 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



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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).

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.



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11. In the light of the aforesaid discussion, and subject to caveat given by Hon'ble High Court supra, we find that in the case in hand, the JAO had issued notice u/s.148 dated 30.03.2024 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 30.03.2024 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 2020-21 by issuance of impugned notice dated 30.03.2024 u/s.148 of the Act and is therefore held to be illegal and bad in law and therefore, assessment order dated 22.01.2025 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.

12. Before parting, we clarify that since our aforesaid action on the legal issue is based on the decision of Hon'ble jurisdictional High Court (DB) passed on 24.06.2025 in Mark Studio India (P.) Ltd. v. Income-tax Officer supra, wherein their Lordship had given the Revenue liberty to approach the Court [i.e. to read in this context, this Tribunal], as observed at para 4 & 5 of the High Court order (supra), if the Revenue



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succeeds in Supreme Court, which observation giving liberty to Revenue would apply 'mutatis-mutandis' in this case also.

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

Order pronounced on the 07th day of January, 2026, in Chennai.

Sd/-

(एस. आर. रघुनाथा)
(S.R.RAGHUNATHA)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(एबी टी. वर्की)
(ABY T. VARKEY)

न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai,

दिनांक/Dated: 07th January, 2026.

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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