आयकर अपीलीय अधिकरण,राजकोट न्यायपीठ,राजकोट।

IN THE INCOME TAX APPELLATE TRIBUNAL, RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER

AND

SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

ITA No. 487/RJT/2025

(Assessment Year: 2017-18)

(Hybrid Hearing)

Kalpesh Ravjibhai Sojitra, Prop. Sojitra Petrolium, Bypass Circle Atkot Road, Jasdan, 360050, Rajkot-(Guj)	**Vs.**	The ITO, Ward-2(1)(2), Rajkot
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: **BQMPS8120G**		
(/Appellant)		**(/Respondent)**

निर्धारिती की ओर से**/**Appellant by : Shri Brijesh Parekh, Ld AR

राजस्व की ओर से**/**Respondent by : Shri Abhimanyu Singh Yadav, Sr. DR

सुनवाई की तारीख**/Date of Hearing : 09/12/2025**

घोषणा की तारीख**/Date of Pronouncement : 08/01/2026**

आदेश **/ORDER**

Per, Dr. A. L. Saini, AM:

The present appeal has been filed by the Assessee, against the order passed by the Learned Commissioner of Income Tax (Appeal), National Faceless Appeal, Centre (NFAC), Delhi [hereinafter referred to as "CIT(A)"] dated 29.07.2025 arising in the matter of assessment order passed u/s. 147 of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2017-18.

2. The Grounds of appeal raised by the assessee are as follows:

"1. The Ld. CIT(A) erred in law as well as on facts upholding the addition of Rs.90,39,290/- being unexplained cash credit u/s.68 of the Act.

2. The Ld. CIT(A) erred in law as well as on facts upholding the assessment order passed by the assessment unit (National Faceless Assessment Centre) u/s. 147 r.w.s 144 of the Act.

3. The Ld. CIT(A) erred in law as well as on facts appeal dismissing without considering the facts and merits.

4. The Ld. CIT(A) erred in law as well as on facts in validity of notice issued by Ld. JAO u/s.148 which was issued manually and without DIN."

3. The assessee has also raised legal additional grounds/technical grounds which are reproduced below:-

"1. The Ld.AO erred in law as well as on facts that notice/order u/s.148A(d) issued by the JAO and not in faceless manner.

2. The Ld.AO erred in law as well as on facts that notice/order u/s.148 issued by the JAO and not in faceless manner."

4. Learned Counsel for the assessee, argued that above additional legal grounds raised by the assessee should be admitted, in the interest of justice, as all facts relating to above legal grounds were before assessing officer. Therefore, Learned Counsel submits before us that these additional ground of appeal may be admitted, as it is being purely a legal issue and all facts are already on record. On the other hand, Learned DR for the Revenue pleaded that assessee did not raise this issue during the appellate proceedings, before the ld CIT(A), therefore, at this stage the assessee can not raise additional ground on legal issue.

5. We have heard both the parties on this preliminary issue. We note that assessee has raised additional ground challenging the notice/order

u/s.148A(d) of the Act, issued by the jurisdictional assessing officer (JAO) and not in faceless manner, and notice/order u/s.148 of the Act issued by the jurisdictional assessing officer (JAO) and not in faceless manner, therefore, this is the legal issue raised by the assessee. We note that it is purely a legal issue and all facts are already on record which goes to the root of the matter and no further inquiry is required for deciding the same as all facts are already on record. Therefore, in the light of ratio laid down by the Hon'ble Supreme Court in the case of *National Thermal Power Company Ltd., vs. CIT* (1998) 229 ITR 382 (SC), we admit the additional ground raised by the assessee and we proceed to adjudicate the same, first.

6. Succinctly, the factual panorama of the case is that assessee before us is an Individual. The case of the assessee was reopened u/s 147 of the Act, on the basis of information received through insight portal. As per the information received through insight portal, the assessee has deposited cash amounting to Rs. 91,89,290/- in bank accounts maintained with Indian Overseas Bank A/c. No. 339433000000002 of Rs. 78,26,790/- and A/c. No. 339402000000019 of Rs. 13,62,500/-, total Rs. 91,89,290/-. During the assessment proceedings, the assessee vide notice u/s 142(1) dated 11.01.2023 was asked to furnish bank statement duly highlighting the cash deposit transaction during the year under consideration and the details of source of this cash deposit along with substantiating documents. However, no compliance was made by the assessee. Notices u/s 133(6) of the Act were issued on 09.02.2023 & 15.02.2023 and VU references of notices u/s 133(6) of the Act were made, where in the bank statement of Indian Overseas Bank was received, that reflected the cash deposits in A/c. No.

339433000000002 of Rs. 78,26,790/- and in A/c. No. 339402000000019 of Rs. 13,62,500/-.

7. Since, the assessee is a proprietor of petrol pump which was allowed to accept old SBN notes during demonetization period, so the total amount of 1.63% is being allowed for the business purpose (91,89,290*1.63%=1,50,000/-), and the amount of Rs. 90,39,290/- (Rs.91,89,290- Rs. 1,50,000) was treated by the assessing officer as unexplained cash credit during the F.Y 2016-17, relevant to assessment year 2017–18 u/s 68 of the Income Tax Act 1961.

8. Aggrieved by the order of the Assessing Officer, the assessee carried the mater in appeal before the Ld. CIT(A), who has confirmed the action of the Assessing Officer by adjudicating the issue on merit. The learned CIT(A) held that the addition made under section 68 amounting to Rs. 90,39,290/- is duly justified, owing to the failure of the assessee to explain the nature and source of cash deposits; no violation of principles of natural justice has been established and no supporting documentary evidence has been submitted either at assessment, therefore findings of the assessing officer, was confirmed by the learned CIT(A).

9. Aggrieved by the order of the ld. CIT(A), the assessee is in further appeal before us.

10. Learned Counsel for the assessee, vehemently argued that no concurrent jurisdiction is allowed and Faceless Reassessment Scheme is

Mandatory and Overrides Manual Jurisdiction. The Revenue's entire edifice rests on the incorrect presumption that the Jurisdictional Assessing Officer ("JAO") and Faceless Assessing Officer ("FAO") enjoy concurrent jurisdiction. This is contrary to the express framework of Section 144B of the Act, and the Faceless Assessment/Reassessment Scheme, 2022, and binding judicial precedents on the subject. The statutory mandate states that once faceless reassessment is notified, physical jurisdiction ceases, for that, learned Counsel for the assessee relied on the judgement of **Hon`ble Supreme Court in the case of ACIT v. M/s. Dharmendra M Jani (2022) 447 ITR 62 (SC), wherein the Hon`ble Court held that when a specific machinery is prescribed, the same must be followed and assessments made contrary to the procedure are void ab initio.**

11. The ld.Counsel further argued that provisions of section 144B(1) of the Act clearly states that assessment or reassessment **"shall be made"** in a faceless manner notwithstanding anything contrary elsewhere in the Act. The non-obstante clause fully excludes the manual jurisdiction of the jurisdictional assessing officer (JAO). Therefore, the scheme provided in the Act, itself overrides manual jurisdiction. The Faceless Reassessment Scheme, 2022, and Notification dated 29.03.2022, expressly mandates that reassessment proceedings are to be conducted only by units under NFAC. Therefore, jurisdictional assessing officer (JAO) cannot initiate proceedings under 148A(b) of the Act or u/s 148 of the Act, once the scheme is enforced.

12. The ld.Counsel also states that jurisdiction vested in a specific authority cannot be exercised by another authority. It is a settled proposition

of law that jurisdiction is not a matter of convenience and for that learned Counsel relied on the following judgements:

(i)CIT v. S. S. Gadgil (1964) 53 ITR 231 (SC)

(ii).Pannalal Binjraj v. Union of India (1957) 31 ITR 565 (SC)

The Hon`ble Supreme Court in the above cases held that a notice issued by an officer who does not possess jurisdiction is void, and such jurisdictional defects cannot be cured.

13. The ld.Counsel also states that Hon`ble Gujarat High Court in the case of Rakesh Agarwal vs. UOI (2023) held that notices under sections 148/148A of the Act, issued by a non-competent officer are void and liable to be quashed. Thus, the impugned notices issued by jurisdictional assessing officer (JAO) after faceless reassessment became the mandatory mechanism are without authority of law.

14. The ld.Counsel also states that Hon`ble Delhi High Court rulings relied upon by Revenue ( Ld.DR) are misapplied and distinguishable. The Revenue relies on T.K.S. Builders, Kataria Education Society, and Navita Bansal (all Hon`ble Delhi HC- judgements). These judgments do not apply to the present case for multiple reasons, as given below:

(a)The case cited by ld DR for the revenue, of Hon`ble Delhi High Court case turns on "lack of allocation order"- In all three judgments cited by the ld DR for the Revenue, the Court held that JAO may proceed only if no allocation to FAO is made.

However, in the present case of the assessee, the NFAC has already been notified for all reassessments.The Scheme does not require individual allocation orders; allocation is system-generated and automatic. After notification, all cases fall within NFAC unless specifically carved out, which is not the situation here in the asessee`s case.Thus, the argument of ld.DR for the revenue is factually incorrect.

15. Therefore, ld.Counsel states that notice issued by non-jurisdictional officer is void ab initio, by following binding precedents, narrated above, where it was held that notice issued by wrong officer is invalid. Therefore, the reassessment order cannot survive as the JAO lacked jurisdiction, once the faceless reassessment became mandatory. Therefore, notices under 148A(b) and 148 of the Act issued by non-competent authority are illegal.

16. On the other hand, ld. D.R. for the Revenue submitted written submission, which we have gone through. Apart from this, learned DR for the revenue argued that the notices were issued within limitation and with requisite approval, the procedure of section 148A(d) of the Act, was followed, and hence there is no material prejudice to the assessee. The ld DR alternatively argued that since order of both authority below are ex party, the case should be restored to assessing officer for fresh adjudication.

17. We have considered the submission of both the parties and noted that case of the assessee should not be remitted back for fresh adjudication before the lower authorities, as the assessee has raised legal issue which goes

to the root of the matter. Therefore, appeal is to be decided by adjudicating the legal issue raised by the assessee. We note that issue under consideration is covered in favour of the assessee, by the judgement of the Hon`ble Supreme Court, in the case of S.S. Gadgil, [1964] 53 ITR 231 (SC) wherein it was held as follows:

> *"Initially a notice of assessment or re-assessment under section 34(1) of 1922 Act against a person deemed to be an agent of a non-resident person under section 43 of 1922 Act could not be issued after the expiry of one year from the end of the year of assessment: under the amended section this period was extended to two years from the end of the relevant assessment year. In the course of assessment to Income-tax for the year 1954-55 the relevant law applicable prescribed that a notice of assessment or re-assessment against a person deemedto be an agent under section 43 of 1922 Act could not be issued after the expiry of one year from the end of the assessment year. That period expired on 31-3-1956, and after that date no notice could be issued, relying upon the law as it stood before amendment for assessment or re-assessment treating the assessee as an agent of a non-resident under section 43 of 1922 Act. But the ITO sought recourse to the amended provision which gave him a period of two years from the end of the assessment year, for initiating assessment proceedings, and the authority of the ITO to so act was challenged by the assessee.*
>
> *Section 18 of 1956 Act, was, it is common ground, not given retrospective operation before 1-4-1956. The question then was, whether the ITO might issue a notice of assessment to a person as an agent of a non-resident party under the amended provision when the period prescribed for such a notice had before the amended Act came into force expired ? Indisputably the period for serving a notice of re-assessment under the unamended section had expired, and there was in the Act, as it then stood, no provision for extending the period beyond the end of one year from the year of assessment. The ITO could therefore commence a proceeding under section 34 of 1922 Act on 27-3-1957, only if the amended section applied and not otherwise. The amending Act came into force after the period provided for the issue of a notice under section 34 of 1922 Act before it was amended had expired. It is true that there was no determinable point of time between the expiry of the prescribed time within which the notice could have been issued against the assessee under section 34, proviso (iii), of 1922 Act before it was amended. But there was no overlapping period either. Prima facie, on the expiry of the period prescribed by section 34 of 1922 Act as it originally stood, there was no scope for issuing a notice unless the legislature expressly gave power to the ITO to issue notice under the amended section notwithstanding the expiry of the period under the unamended provision or unless there was overlapping of the period within which notice could be issued under the old and the amended provision.*

The power to issue a notice under the amended Act came to an end on 31-3-1956. Under that Act no notice could thereafter be issued. It is true that by the amendment made by section 18 of 1956 Act, a notice could be issued within two years from the end of the year of assessment. But the application of the amended Act is subject to the principle that, unless otherwise provided, if the right to act under the earlier statute has come to an end, it could not be revived by the subsequent amendment which extended the period of limitation. The right to issue a notice under the earlier Act came to an end before the new Act came into force. There was undoubtedly no determinable point of time between the expiry of the earlier Act and the commencement of the new Act; but that would not, affect the application of this rule.

A proceeding for assessment is not a suit for adjudication of a civil dispute. That an income-tax proceeding is in the nature of a judicial proceeding between contesting parties, is a matter which is not capable of even a plausible argument. The income-tax authorities who have power to assess and recover tax are not acting as judges deciding a litigation between the citizen and the State: they are administrative authorities whose proceedings are regulated by statute, but whose function is to estimate the income of the taxpayer and to assess him to tax on the basis of that estimate. Tax legislation necessitates the setting up of machinery to ascertain the taxable income, and to assess tax on the income, but that does not impress the proceeding with the character of an action between the citizen and the State.

Again the period prescribed by section 34 of 1922 Act for assessment is not a period of limitation. The section in terms imposes a fetter upon the power of the ITO to bring to tax escaped income. It prescribes different periods in different classes of cases for enforcement of the right of the State to recover tax. The right to commence a proceeding for assessment against the assessee as an agent of a non-resident party under the Income-tax Act before it was amended, ended on 31-3-1956. It is true that under the Amending Act by section 18, authority was conferred upon the ITO to assess a person as an agent of a foreign party under section 43 of 1922 Act within two years from the end of the year of assessment. But authority of the ITO under the Act before it was amended by the 1956 Act, having already come to an end, the amending provision would not assist him to commence a proceeding even though at the date when he issued the notice was within the period provided by that amending Act. This will be so, notwithstanding the fact that there had been no determinable point of time between the expiry of the time provided under the old Act and the commencement of the amending Act. The legislature has given to section 18 of 1956 Act, only a limited retrospective operation, i.e., up to 1-4-1956, only. That provision must be read subject to the rule that in the absence of an express provision or clear implication, the legislature does not intend to attribute to the amending provision a greater retrospectivity than is expressly mentioned, nor to authorise the ITO to commence

proceedings which before the new Act came into force had by the expiry of the period provided become barred. The appeal failed and was to be dismissed.

18. The issue under consideration is also covered in favour of the assessee by the judgement of the Co-ordinate Bench of ITAT Hyderabad in the case of Venkata Ramanamma Sakamuri in ITA No.299/Hyd/2025 order dated 05.12.2025, wherein it was held as follows:

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 144 r.w.s 144B of the Act, dated 19/02/2024 by the Assessment Unit, Income-Tax Department, i.e., Faceless Assessing Officer (FAO), based on the order passed u/s 148A(d), dated 31/03/2023 and Notice u/s 148 of the Act, dated 31/03/2023, issued by the ITO, Ward-1, Nellore, 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. 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 19/02/2024, 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 144r.w.s 144B of the Act, dated 19/02/2024, based on the Notice u/s 148 of the Act, dated 31/03/2023 issued by the ITO, Ward-1, Nellore, 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 47 r.w.s 144 r.w.s 144B of the Act, dated 19/02/2024, is quashed for lack 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.

19. We note that our view is also fortified by the judgement of the ITAT Chennai in the case of Indian Medical Association College of General Practitioners Head Quts Trust in ITA No.2186 & 2187/Chny/2025, wherein

on identical fact the reassessment order was quashed. The findings of the Tribunal are as follows:

7. The assessee's contention is that jurisdictional notice issued by the JAO u/s 148 after 09.03.2023 in order to reopen the assessment is bad in law since he didn't adhere to the provisions of Section 151 of the Act and the scheme notified by the CBDT [Faceless Scheme notified from 29.03.2022 (supra)] which legal issue, which we will deal first.

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

9. The Hon'ble Bombay High Court in the case of Hexaware Technologies Ltd., (supra) is noted to have 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 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.*

10. In the light of the aforesaid discussion, we find that in the case in hand, the JAO had issued notice u/s.148 dated 09.03.2023 which impugned notices have 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 29.03.2023 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 2019-20 & consequent action of framing assessment order dated 29.12.2023 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.

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11. The AO is noted to have levied a penalty of Rs.10,000/- u/s.272A(1)(d) of the Act for not complying with the notice issued u/s.142(1) dated 27.07.2023. On appeal, the Ld.CIT(A) has refused to condone the delay and didn't admit the appeal. Aggrieved, the assessee is before us.

12. Since, the notice u/s.142(1) dated 28.07.2023 was issued pursuant to the reopening u/s.148 by the JAO dated 09.03.2023 which we have already quashed. As a sequitur the notice u/s.142(1) dated 27.08.2023 is null in the eyes of law and therefore, it is also quashed.

13. In the result, appeals filed by the assessee are allowed.

20. Law is well settled that when the statute requires to do certain thing in certain way, the thing must be done in that way or not at all. Other methods or mode of performance are impliedly and necessarily forbidden. The aforesaid settled legal proposition is based on a legal maxim ***'Expressio unius est exclusion alteris',*** meaning there by that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner and following of other course is not permissible. Therefore, we find merit in the submissions of learned Counsel for the assessee to the effect that the provisions of section 144B(1) of the Act clearly states that assessment or reassessment **"shall be made"** in a faceless manner notwithstanding anything contrary elsewhere in the Act. The non-obstante clause fully excludes the manual jurisdiction of the jurisdictional assessing officer (JAO). Therefore, the scheme provided in the Act, itself overrides manual jurisdiction. The Faceless Reassessment Scheme, 2022, and Notification dated 29.03.2022, expressly mandates that reassessment proceedings are to be conducted only by units under NFAC. Therefore, jurisdictional assessing officer (JAO) cannot initiate proceedings under 148A(b) of the Act or u/s 148 of the Act, once the scheme is enforced. Therefore, the impugned notices issued under Sections 148A(b), 148A(d),

and 148 of the Act are void and hence the entire reassessment proceedings should be quashed.Therefore, based on these facts and circumstances, we quash the reassessment order passed by the assessing officer under section 147 of the Act, dated 03.05.2023. As the reassessment itself is quashed, all other issues on merits of the additions, in the impugned assessment proceedings, are rendered academic and infructuous.

21. In the result, appeal filed by the assessee is allowed, in above terms.

Order pronounced in the open court on 08-01-2026

Sd/-	**Sd/-**
(DINESH MOHAN SINHA)	**(Dr. A. L. SAINI)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Rajkot
Dated: 08/01/2026

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Rajkot
6. Guard file.

(True Copy) By order/आदेश से,

Assistant Registrar
ITAT, Rajkot