आयकर अपीलीय अधिकरण, हैदराबाद पीठ

IN THE INCOME TAX APPELLATE TRIBUNAL

Hyderabad 'A' Bench, Hyderabad

श्री रवीश सूद, माननीय न्यायिक सदस्य एवं श्री मधुसूदन सावडिया, माननीय लेखा सदस्य

SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER

AND

SHRI MADHUSUDAN SAWDIA HON'BLE ACCOUNTANT MEMBER

आयकरअपीलसं./**I.T.A. No.1143/Hyd/2025**

(निर्धारणवर्ष/ **Assessment Year:2015-16)**

The Ookal Farmers Service Cooperative Society Limited, Warangal. PAN: AACAT0993J	*VS.*	ITO, Ward-1, Warangal.
(अपीलार्थी/ Appellant)		**(प्रत्यर्थी/ Respondent)**

आयकरअपीलसं./**I.T.A. No.1144/Hyd/2025**

(निर्धारणवर्ष/ **Assessment Year: 2016-17)**

The Ookal Farmers Service Cooperative Society Limited, Warangal. PAN: AACAT0993J	*VS.*	ITO, Ward-1, Warangal.
(अपीलार्थी/ Appellant)		**(प्रत्यर्थी/ Respondent)**

आयकरअपीलसं./**I.T.A. No.1145/Hyd/2025**

(निर्धारणवर्ष/ **Assessment Year:2018-19)**

The Ookal Farmers Service Cooperative Society Limited, Warangal. PAN: AACAT0993J	*VS.*	ITO, Ward-1, Warangal.
(अपीलार्थी/ Appellant)		**(प्रत्यर्थी/ Respondent)**

करदाताकाप्रतिनिधित्व/ Assessee Represented by	:	Shri SNSR Chinmai, Advocate and Smt. S. Sandhya, Advocate
राजस्वकाप्रतिनिधित्व/ Department Represented by	:	Ms. Helen Ruby Jesindha

सुनवाईसमाप्तहोनेकीतिथि/ Date of Conclusion of Hearing	:	18/12/2025
घोषणा की तारीख/ Date of Pronouncement	:	24/12/2025

ORDER

PER RAVISH SOOD, JM:

The captioned appeals filed by the assessee society are directed against the respective orders passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, dated 29/04/2025, 09/05/2025 and 13/05/2025, which in turn arise from the respective orders passed by the AO under section 147 r.w.s 144B of the Income Tax Act, 1961 (for short, "the Act"), dated 31/01/2024 for Assessment Years 2015-16 and 2016-17, and under section 147 r.w.s 144B of the Act, dated 15/02/2025 for AY 2018-19. As a common issue is involved in the captioned appeals, therefore, the same are being taken up and disposed of vide a consolidated order. We shall first take up the appeal for the AY 2015-16, ITA No.1143/Hyd/2025, and the order therein passed shall apply *mutatis mutandis* for the purpose of disposing of the other appeals. The assessee has assailed the impugned order of the CIT(A) on the following grounds of appeal:

> "1) The order of the learned CIT (A) is erroneous both on facts and in law;

> 2) The learned CIT (A) erred in not considering the fact that the notice u/s 148A(b), order u/s 148A(d) and the notice u/s 148 were issued by the Income Tax Officer, Ward-1(1), Warangal who has no jurisdiction and therefore, the assessment order passed is not valid;
>
> 3) The learned CIT (A) erred in confirming the action of the Assessing Officer in assessing an amount of Rs.8,54,815/ representing the gross interest and further erred in holding that the said amount is not allowable to be deducted u/s 80P of the I.T. Act.
>
> 4) The learned CIT (A) ought to have seen that the gross amount of interest cannot separately be assessed and only the net amount of interest after deducting the expenditure arising out of the said amount is only taxable under the head "interest";
>
> 5) Any other ground/grounds that may be urged at the time of hearing;"

2. Also, the assessee has raised an additional ground of appeal, which is common in all three captioned appeals, i.e., ITA Nos. 1143, 1144 and 1145/Hyd/2025, that reads as under:

> "1) The notice u/s 148 issued by the Income-Tax Officer, Ward-1, Warangal is without jurisdiction and, therefore, the consequent assessment made is invalid."

3. As the assessee, by raising the aforesaid additional ground of appeal, has sought our indulgence for adjudicating a legal issue which will not require looking any further beyond the facts available on record, therefore, we have no hesitation in admitting the same. Our aforesaid view is fortified by the judgment of the **Hon'ble Supreme Court** in the case of **National Thermal Power Company Ltd. Vs. CIT (1998) 229 ITR 383 (SC)**.

4. Succinctly stated, the AO observing that the assessee, an Association of Persons (AOP), had not filed its return of income for AY 2015-16, but as per the information flagged in accordance with the Risk Management Strategy in the category of High Risk CRIU/VRU cases, it had during the subject year carried out substantial financial transactions, viz., (i). cash deposits: Rs. 48.80 lacs; (ii). cash deposits: Rs. 46.30 lacs; and (iii). time deposits: Rs. 2,19,57,968/-, initiated proceedings under Section 147 of the Act. Thereafter, the AO issued Notice U/sec.148 of the Act, dated 25.04.2022. In compliance, the assessee filed its return of income on 24.05.2022, declaring an income of Rs. Nil (after claiming deduction under Section 80P of the Act).

5. Thereafter, the AO vide his order passed under Section 147 r.w.s 144B of the Act, dated 31/01/2024, holding a conviction that the interest income derived by the assessee society on its deposits co-operative bank/nationalized banks was not eligible for deduction under Section 80P(2)(d) of the Act, scaled down its claim for deduction u/s 80P to the said extent and determined its income at Rs. 8,54,815/-.

6. Aggrieved, the assessee society carried the matter in appeal before the CIT(A) but without success.

7. The assessee society aggrieved with the CIT(A) order has carried the matter in appeal before us.

8. 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.

9. Shri SNSR Chinmai, Advocate, the Learned Authorised Representative (for short, "Ld. AR") for the assessee society, at the threshold of hearing of the appeal, submitted that the present appeal involves a delay of 9 days. The Ld. AR submitted that though the assessee society had well within the stipulated time requested its Chartered Accountant to file the present appeal, but due to certain technical glitches, i.e., difficulty in getting the One Time Password (OTP) required for online submission of the appeal due to problems with both e-mail and phone number, the relevant documents could be uploaded only on 09.07.2025, which by the time involved a delay of 9 days. The Ld. AR had drawn our attention to the petition and the affidavit of the assessee society wherein the aforesaid facts were deposed. The Ld. AR submitted that, as he delay in filing the appeal had crept in because of a bonafide reason, therefore, the same in all fairness be condoned.

10. Per Contra, the Ld. Sr. DR did not object to the seeking of the condonation of the delay involved in the present appeal.

11. We have thoughtfully considered the reasons leading to the delay in filing of the present appeal by the assessee appellant, and are of the view that as the same had crept in because of bonafide reasons, therefore, the same merits to be condoned.

12. Shri SNSR Chinmai, Advocate, the Ld. AR, submitted that both the impugned order passed under Section 148A(d) of the Act, dated 24.04.2022 and Notice under Section 148 of the Act, dated 25.04.2022 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 his 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 Telangana** in the case of **Kankanala Ravindra Reddy Vs. ITO & 2 Others, Writ Petition Nos 25903 of 2023, dated 14.09.2023.**

13. Per Contra, Ms. Helen Ruby Jesindha, 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 it had not called in question the jurisdiction of the ITO, Ward 1, Warangal (JAO) who had issued Notice under Section 148 of the Act, dated 25/04/2022, therefore, it 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 period not called in question the jurisdiction of the ITO, Ward 1, Warangal, i.e., the JAO, who had issued Notice under Section 148 of the Act, dated 25/04/2022, therefore, it cannot now be permitted to object to the same for the very first time before the Tribunal.

14. We have thoughtfully considered the contentions advanced by the Ld. Authorized Representatives of both parties regarding the validity of the jurisdiction assumed by the FAO for framing the assessment vide his order passed under Section 147 r.w.s 144B of the Act, dated 31/01/2024, which in turn is based on the order passed under Section 148A(d) of the Act, dated 24/04/2022 and Notice issued under Section 148 of the Act, dated 25/04/2022 by the ITO, Ward 1, Warangal, i.e., the JAO.

15. We shall first deal with the Ld. DR's contention that as the assessee had within the specified time period contemplated under sub-section (3) of Section 124 of the Act, i.e., within a period of one month from the date on which the said notice was served upon him not called in question the jurisdiction of the ITO, Ward 1, Warangal i.e., the JAO, who had issued Notice u/s 148 of the Act, dated 25/04/2022, therefore,

he was precluded from assailing the same for the first time before the Tribunal.

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

> "124 (1) xxxxxxxx
>
> (2) xxxxxxx
>
> (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."

17. Having given a thoughtful consideration to the aforesaid claim of the ld. DR in the backdrop of the mandate of Sub-section (3) of Section 124 of the Act, we are unable to fathom that as to how the restriction therein contemplated, which is confined to questioning the jurisdiction of an Assessing Officer, can have any bearing on the claim of the present assessee before us, which has assailed the validity of the assessment order passed under Section 147 r.w.s 144B of the Act, dated 31/01/2024 by the Assessment Unit, Income-Tax Department, i.e., Faceless Assessing Officer (FAO) based on the Notice u/s 148 of the Act, dated 25/04/2022that was issued by the ITO, Ward 1, Warangal, i.e., JAO who inherently lacked the jurisdiction for both initiating the proceedings u/s 148A of the Act and issuing Notice u/s 148 of the Act.

18. Before dealing with the subject issue, we deem it apposite to look into the fabric of Section 124 of the Act. On a careful perusal of Section 124 of the Act, it transpires that the same apparently deals with the issue of "territorial jurisdiction" of an Assessing Officer. Ostensibly, sub-section (1) of Section 124 contemplates vesting with the AO of jurisdiction over a specified area by virtue of any direction or order issued under sub-section (1) and sub-section (2) of Section 120 of the Act. Sub-section (2) of Section 124 contemplates the manner in which any controversy regarding the territorial jurisdiction of an AO is to be resolved. Apropos sub-section (3) of Section 124 of the Act, the same

places a restriction upon an assessee to call in question the jurisdiction of the A.O where he had initially not raised such objection within a period of one month from the date on which he was served with a notice under sub-section (1) of Section 142 or sub-section (2) of Section 143 or Section 148 or sub-section (1) of Section 153A or sub-section (2) of Section 153C. To sum up, the obligation cast upon an assessee to call in question the jurisdiction of the A.O as per the mandate of sub-section (3) of Section 124 is confined to a case where he objects to the assumption of jurisdiction by the A.O, and not otherwise.

19. At this stage, we may herein refer to certain judicial pronouncements that had in the past held the field on the aforesaid issue. The **Hon'ble High Court of Bombay** in the case of **Peter Vaz & Ors. Vs, CIT & Ors. (2021) 436 ITR 616(Bom)** and the **Hon'ble High Court of Gujarat** in the case of **Commissioner of Income-tax v. Ramesh D. Patel [2014] 42 taxmann.com 540/225 Taxman 411/362 ITR 492 (Gujarat)**, had held that as Section 124 of the Act pertains to territorial jurisdiction vested with an AO under sub-section (1) or sub-section (2) of Section 120, therefore, the provisions of sub-section (3) of Section 124 which puts a restriction on an assessee to object to the validity of the jurisdiction of an A.O would get triggered only in a case where the dispute of the assessee is with respect to the territorial jurisdiction and have no relevance in so far his inherent jurisdiction for

framing the assessment is concerned. Further, the **Hon'ble High Court of Bombay** in the case of **Bansilal B. Raisoni & Sons v. Assistant Commissioner of Income Tax [2019] 101 taxmann.com 20/260 Taxman 281 (Bombay)** had, inter alia, observed that the time limit for objecting to the jurisdiction of the Assessing Officer prescribed under sub-section (3) of Section 124 has a relation to the Assessing Officer's territorial jurisdiction. It was further observed that the time limit prescribed would not apply to a case where the assessee contends that the action of the Assessing Officer is without authority of law and, therefore, wholly without jurisdiction. Also, the **Hon'ble High Court of Bombay** in the case of **Commissioner of Income tax v. Lalitkumar Bardia [2017] 84 taxmann.com 213/[2018] 404 ITR 63 (Bombay)** had addressed the contention of the department that where the assessee had not objected to the jurisdiction within the time prescribed under sub-section (3) of Section 124 of the Act, then, having waived its said right, it was barred from raising the issue of jurisdiction after having participated in the assessment proceedings. The Hon'ble High Court had observed that the waiver can only be of one's right or privilege, but non-exercise of the same will not bestow jurisdiction on a person who inherently lacks jurisdiction. Therefore, the principle of waiver cannot be invoked to confer jurisdiction on an Officer who is acting under the Act when he does not have jurisdiction. The Hon'ble High Court, while concluding as hereinabove, had relied on the judgment of the **Hon'ble Supreme**

Court in the case of **Kanwar Singh Saini v. High Court of Delhi (2012) 4 SCC 307**. The Hon'ble Apex Court in its aforesaid judgment, had held that it is the settled legal proposition that conferment of jurisdiction is a legislative function and it can neither be conferred with the consent of the parties nor by a superior court. The Hon'ble Apex Court further observed that if the court passes an order or decree having no jurisdiction over the matter, it would amount to a nullity as the matter goes to the roots of the cause. Also, the Hon'ble Apex Court clarified that an issue can be raised at any belated stage of the proceedings, including in appeal or execution. Elaborating further, it was observed by the Hon'ble Apex Court that the finding of a court or tribunal becomes irrelevant and unenforceable and inexecutable once the forum is found to have no jurisdiction. It was further observed by the Hon'ble Apex Court that the acquiescence of a party equally should not be permitted to defeat the legislative animation, and the court cannot derive jurisdiction apart from the statute. For the sake of clarity, the observations of the Hon'ble Apex Court in the case of Kanwar Singh Saini (supra) are culled out as under:

> "22. **There can be no dispute regarding the settled legal proposition that conferment of jurisdiction is a legislative function and it can neither be conferred with the consent of the parties nor by a superior court, and if the court passes order/decree having no jurisdiction over the matter, it would amount to a nullity as the matter goes to the roots of the cause**. **Such an issue can be raised at any belated stage of the proceedings including in appeal or execution. The finding of a court or tribunal becomes irrelevant and unenforceable/inexecutable once the forum is**

> **found to have no jurisdiction. Acquiescence of a party equally should not be permitted to defeat the legislative animation. The court cannot derive jurisdiction apart from the statute**. (Vide United Commercial Bank Ltd v. Workmen, Nai Bahu v. Lala Ramnarayan, Natraj Studios (P) Ltd. v. Navrang Studios, Sardar Hasan Siddiqui v. STAT, A.R. Antulay v. R.S. Nayak, Union of India v. Deoki Nandan Aggarwal, Karnal Improvement Trust v. Parkash Wanti, U.P. Rajkiya Nirman Nigam Ltd. v. Indure (P) Ltd., State of Gujarat v. Rajesh Kumar Chimanlal Barot, Kesar Singh v. Sadhu, Kondiba Dagadu Kadam v. Savitribai Sopan Gujar and CCE v. Flock (India) (P) Ltd.)"
>
> **(emphasis supplied by us)**

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

> "30. **If a statute expressly confers a power or imposes a duty on a particular authority, then such power or duty must be exercised or performed by that authority itself**. (Dr. Premachandran Keezhoth v.

Chancellor, Kannur University). **Further, when a statute vests certain power in an authority to be exercised in a particular manner, then that authority has to exercise its power following the prescribed manner (CIT v. Anjum M.H. Ghaswala; State of Uttar Pradesh v. Singhara Singh). Any exercise of power by statutory authorities inconsistent with the statutory prescription is invalid.....**

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

(emphasis supplied by us)

21. We shall now advert to the judgment of the **Hon'ble Supreme Court**, in the case of **Deputy Commissioner of Income-tax (Exemption) v. Kalinga Institute of Industrial Technology [2023] 454 ITR 582 (SC)**, that has been relied upon by the Ld. DR to impress upon us that as the assessee in the present case before us, had, within the time allowed by the notice issued u/s 148 of the Act, dated 25/04/2022, i.e., period of 30 days, not called in question the jurisdiction of the ITO, Ward 1, Warangal, i.e., JAO, based on which the Assessment Unit, Income-Tax Department, i.e., Faceless Assessing Officer (FAO) had thereafter framed the assessment vide his order

passed under Section 147 r.w.s 144B of the Act, dated 31/01/2024, 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.

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

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

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

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

(iv). Hon'ble High Court of Orissa, observing that the jurisdiction to issue notice u/s. 143(2) of the Act in the case of the assessee remained with the Jt. CIT(OSD)(Exemption), Bhuwaneshwar, therefore, held the impugned notice issued u/s. 143(2) of the Act by the ACIT, Corporate Circle-1(2), Bhuwaneshwar, as having been issued without jurisdiction and quashed the same.

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

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

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

25. We have given thoughtful consideration on the issue of validity of the jurisdiction assumed by the "Faceless Assessing Officer" (FAO) for framing the assessment vide his order passed under Section 147 r.w.s

144B of the Act, dated 31/01/2024 based on the order passed under Section 148A(d) of the Act, dated 24/04/2022 and Notice issued U/s 148 of the Act, dated 25/04/2022 by the ITO, Ward 1, Warangal, i.e., the “Jurisdictional Assessing Officer” (JAO).

26. In our view, the issue involved in the present appeal, i.e., the validity of the assessment order passed under Section 147 r.w.s 144B of the Act, dated 31/01/2024 by the Assessment Unit, Income-Tax Department, i.e., Faceless Assessing Officer (FAO), based on the order passed u/s 148A(d), dated 24/04/2022 and Notice u/s 148 of the Act, dated 25/04/2022, issued by the ITO, Ward 1, Warangal, i.e., the JAO, as on date is squarely covered by the Judgment 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.** The Hon’ble Jurisdictional 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:

> **23.** In furtherance to the powers conferred under sub-sections 1 and 2 of section 130 of the aforesaid Income-tax Act, the Central Board of Direct Taxes framed a scheme called as the "Faceless jurisdiction of Income Tax Authorities Scheme, 2022." A plain reading of the aforesaid notification would clearly reflect that as has been amended

under section 130. The Central Board of Direct Taxes has framed a scheme which defines the Act to be the Income Tax Act and it specifically defines automated allocation which is defined under section 2 (1)(*b*), which again for ready reference is being re-produced herein under:

"In this Scheme, unless the context otherwise requires, --

(*a*) "Act" means the Income-tax Act, 1961 (43 of 1961);
(*b*) "automated allocation" means 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;"

Further Section 3 of the said scheme deals with vesting of the jurisdiction with the Assessing Officer, which again for ready reference is being reproduced herein under:
"vesting the jurisdiction with the Assessing Officer as referred to in section 124 of the Act, shall be in a faceless manner, through automated allocation, in accordance with and to the extent provided in-
(*i*) Section 144B of the Act with reference to making faceless assessment of total income or loss of assessee;"

24. In furtherance to the aforesaid notification, the Central Board of Direct Taxes again in exercise of its powers conferred under sub-sections 1 and 2 of section 151A framed another scheme called as the e-assessment of Income Escaping Assessment Scheme 2022, which defines automated allocation is reproduced herein under:

"In this Scheme, unless the context otherwise requires,-

(*a*) "Act" means the Income-tax Act, 1961 (43 of 1961);
(*b*) "automated allocation" means 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."
And the scope of the scheme again has been envisaged in Section 3 of the said scheme, which again for ready reference is being reproduced herein under:

"For the purpose of this Scheme,-
(*a*) assessment, reassessment or recomputation under sectopm 147 of the Act,
(*b*) issuance of notice under section 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."

25. A plain reading of the aforesaid two notifications issued by the Central Board of Direct Taxes dated 28-3-2022 and 29-3-2022, it would clearly indicate that the Central Board of Direct Taxes was very clear in its mind when it framed the aforesaid two schemes with respect to the proceedings to be drawn under section 148A, that is to have it in a faceless manner. There were two mandatory conditions which were required to be adhered to by the Department, firstly, the allocation being made through the automated allocation system in accordance with the risk management strategy formulated by the Board under section 148 of the Act. Secondly, the re-assessment has to be done in a faceless manner to the extent provided under section 144B of the Act.

26. After the introduction of the above two schemes, it becomes mandatory for the Revenue to conduct/initiate proceedings pertaining to reassessment under section 147, 148 & 148A of the Act in a faceless manner. Proceedings under section 147 and section 148 of the Act would now have to be taken as per the procedure legislated by the Parliament in respect of reopening/re-assessment *i.e.,* proceedings under section 148A of the Act.

27. In the present case, both the proceedings *i.e.,* the impugned proceedings under section 148A of the Act, as well as the consequential notices under section 148 of the Act were issued by the local jurisdictional officer and not in the prescribed faceless manner. The order under section 148A(*d*) of the Act and the notices under section 148 of the Act are issued on 29-4-2022, *i.e.,* after the "Faceless Jurisdiction of the Income-tax Authorities Scheme, 2022" and the "e-Assessment of Income Escaping Assessment Scheme, 2022" were introduced.

28. From the afore given factual matrix, firstly the statutory provisions enumerated in the preceding paragraphs and secondly, the subsequent direction given by the Hon'ble Supreme Court in the case of *Ashish Agarwal*, *supra*, what is clearly reflected is the fact that when the Hon'ble Supreme Court had partly allowed the petitions which were filed by the Union of India challenging the judgements of various High Courts whereby the notice under section 148 of the unamended Act were *set aside* by the High Courts, the Hon'ble Supreme Court has only permitted the Union of India to proceed further with the reassessment proceedings under the amended provision of law, more particularly, as amended by the Finance Act, 2021. It never intended the authorities concerned to continue with the proceedings from the stage of the issuance of notices under section 148, nor is the directions to that effect. And there cannot be any confusion, ambiguity or mis-conception for the respondent-Department to have in this regard.

29. The Hon'ble Supreme Court has in paragraph No. 7 specifically held that the High Courts have rightly held that the benefit of new provisions shall be made available in respect of the proceedings relating to past assessment years. Further, the Hon'ble Supreme Court again in paragraph No. 8 very emphatically had said that the

proceedings ought not to have been issued under the unamended Act. Rather ought to had been issued under the substituted provisions as per the Finance Act, 2021. Further, in the same paragraph clearly directed the Income-tax Department to proceed further as per the Finance Act, 2021, subject to compliance of all the procedural requirements and defences available to the assessee under the substituted provisions under the Finance Act, 2021. The fact that the Hon'ble Supreme Court allowed the notice earlier issued under section 148 be treated as notice one under section 148A and further it was also be treated as the show cause notice issued under section 148A(*b*) by itself establishes the fact the directions given by the Hon'ble Supreme Court for the respondent-Department was to proceed further in accordance with the substituted provisions which stood introduced by the Finance Act, 2021.

30. In the instant case, undisputedly the respondent-Department has not proceeded against the petitioner under the substituted provisions of the Finance Act, 2021. Rather, it proceeded with the unamended provisions of law. This in other words takes the position back to the stage as it stood when the initial notices under section 148 under the unamended provisions of law were issued. This in other words also takes us to a position or a stage prior to the large number of writ petitions being allowed across the country, approximately 9,000 in number and confirmed by the Hon'ble Supreme Court also *vide* the judgement of *Ashish Agarwal*, *supra*.

31. It is well settled principle of law that where the power is given to do certain things in certain way, the thing has to be done in that way alone and no any other manner which is otherwise not provided under the law.

32. The Hon'ble Supreme Court in the case of *Chandra Kishore Jha* v. *Mahaveer Prasad* [1999] 8 SCC 266 in paragraph No. 17 laying down the aforesaid principle held as under "it is well settled solitary principle that if 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. The said principle of law was further reiterated in the case of *Cherrukuri Mani* v. *Chief Secretary Government of Andhra Pradesh* [2015] 13 SCC 722, wherein, again in paragraph No. 14, the aforesaid principle has been reinforced by the Hon'ble Supreme Court holding that "where law prescribe a thing to be done in a particular manner following a particular procedure, it shall have to be done in the same manner following the provisions of law without deviating from the prescribed procedure. The said principle has again recently been reiterated and followed in the case of *Municipal Corporation Greater Mumbai (MCGM)* v. *Abhilash Lal* [2019] 111 taxmann.com 405/[2020] 157 SCL 477 (SC)/[2020] 13 SCC 234, and in the case of *Opto Circuit India Ltd.* v. *Axis Bank* [2021] 127 taxmann.com 290/165 SCL 703 (SC)/[2021] 6 SCC 707 and again in the case of *Union of India* v. *Mahendra Singh* [CAP No. 4807 of 2022, dated 25-7-2022]. In the case of *Tata Chemicals Ltd.* v. *Commissioner of Customs (preventive) Jam Nager* [2015] 58 taxmann.com 126/[2015] 11 SCC 628, wherein it has been held that there can be no stopple against the

law. If the law requires something to be done in a particular manner, then it must be done in that manner, if it is not done in that manner then it would have no existence in the eye of law. In paragraph 18 of the said judgment, the Hon'ble Supreme Court held as under:

"The Tribunal's judgment has proceeded on the basis that even though the samples were drawn contrary to law, the appellants would be estopped because their representative was present when the samples were drawn and they did not object immediately. This is a completely perverse finding both on fact and law. On fact, it has been more than amply proved that no representative of the appellant was, in fact, present at the time the Customs Inspector took the samples. Shri K.M. Jani who was allegedly present not only stated that he did not represent the Clearing Agent of the appellants in that he was not their employee but also stated that he was not present when the samples were taken. In fact, therefore, there was no representative of the appellants when the samples were taken. In law equally the Tribunal ought to have realized that there can be no estoppel against law. If the law requires that something be done in a particular manner, it must be done in that manner, and if not done in that manner has no existence in the eye of law at all. The Customs Authorities are not absolved from following the law depending upon the acts of a particular assessee. Something that is illegal cannot convert itself into something legal by the act of a third person."

33. If we look into the principle of law laid down by the Hon'ble Supreme Court as enumerated in the preceding paragraphs and when we look into the facts of the present case, it would clearly reflect that the Parliament had by virtue of the Finance Act 2021, brought certain amendments to the provisions of the Income-tax Act, more particularly, in respect of the manner in which the reassessment and the procedure to be adopted by the Income-tax Department. The amendment was brought with an intention to make the law more transparent and effective. The Hon'ble Supreme Court also while deciding the case of *Ashish Agarwal*, *supra*, as is discussed with in the preceding paragraph had specifically directed the Union of India to proceed further in terms of the substituted provisions brought in by way of Finance Act 2021.

34. What is also relevant to take note of the fact that the Hon'ble Supreme Court while exercising its power under Article 142 of the Constitution of India has also not relaxed the applicability of the Finance Act 2021. Rather, the Hon'ble Supreme Court in very clear and unambiguous terms had held that the notices issued under the un-amended provisions, which were struck down by the High Court, shall be treated as a notice under new amended provisions and the Union of India was directed to proceed further from that stage in terms of the amended provisions of law. In spite of such specific clear directions by the Hon'ble Supreme Court, the Union of India for reasons best known again proceeded with the procedure as it stood prior to the amended provisions which came into force from 1-4-2021.

> **35.** In view of the aforesaid discussions, it is by now very clear that the procedure to be followed by the respondent-Department upon treating the notices issued for reassessment being under section 148A, the subsequent proceedings was mandatorily required to be undertaken under the substituted provisions as laid down under the Finance Act, 2021. In the absence of which, we are constrained to hold that the procedure adopted by the respondent-Department is in contravention to the statute *i.e.* the Finance Act, 2021, at the first instance. Secondly, it is also in direct contravention to the directives issued by the Hon'ble Supreme Court in the case of Ashish Agarwal, *supra*.
>
> **36.** For all the aforesaid reasons, the impugned notices issued and the proceedings drawn by the respondent-Department is neither tenable, nor sustainable. The notices so issued and the procedure adopted being per se illegal, deserves to be and are accordingly set aside/quashed. As a consequence, all the impugned orders getting quashed, the consequential orders passed by the respondent-Department pursuant to the notices issued under section 147 and 148 would also get quashed and it is ordered accordingly. The reason we are quashing the consequential order is on the principles that when the initiation of the proceedings itself was procedurally wrong, the subsequent orders also gets nullified automatically.
>
> **37.** The preliminary objection raised by the petitioner is sustained and all these writ petitions stands allowed on this very jurisdictional issue. Since the impugned notices and orders are getting quashed on the point of jurisdiction, we are not inclined to proceed further and decide the other issues raised by the petitioner which stands reserved to be raised and contended in an appropriate proceedings.
>
> **38.** Since the Hon'ble Supreme Court had, in the case of Ashish Agarwal, *supra*, as a one-time measure exercising the powers under Article 142 of the Constitution of India, permitted the Revenue to proceed under the substituted provisions, and this Court allowing the petitions only on the procedural flaw, the right conferred on the Revenue would remain reserved to proceed further if they so want from the stage of the order of the Supreme Court in the case of Ashish Agarwal, *supra*.
>
> **39.** No order as to costs."

27. We, thus, respectfully follow the judgment of the **Hon'ble Jurisdictional High Court** in the case of **Kankanala Ravindra Reddy Vs. ITO & 2 Others** (supra), and on the same terms hold the impugned orders and notices issued by the Jurisdictional Assessing Officer (JAO), i.e., outside the faceless mechanism as provided in Section

144(b) r.w Section 151A and the "E-Assessment Scheme of Income Escaping Assessment Scheme, 2022" notified by the Government of India on 29.03.2022 under Section 151A of the Act, as bad and illegal. Consequent thereto, we herein set aside the order passed by the CIT(A), and quash the impugned assessment order passed by the Assessment Unit, Income-tax Department, i.e., FAO under Section 147 r.w.s 144B of the Act, dated 31/01/2024, for want of a valid assumption of jurisdiction on his part.

28. As we have quashed the assessment for want of valid assumption of jurisdiction by the Assessment Unit, Income-Tax Department, i.e., Faceless Assessing Officer (FAO) for framing the impugned assessment vide order passed under Section 147 r.w.s 144B of the Act, dated 31/01/2024, based on the Notice u/s 148 of the Act, dated 25/04/2022 issued by the ITO, Ward 1, Warangal, 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.

29. Resultantly, the order passed by the Assessment Unit, Income-Tax Department, i.e., Faceless Assessing Officer (FAO) under Section 147 r.w.s 144B of the Act, dated 31/01/2024, is quashed for want of a valid assumption of jurisdiction by him.

30. Before parting, we may herein observe that the Hon'ble Jurisdictional High Court, while disposing of the appeal in the case of Kankanala Ravindra Reddy Vs. ITO & 2 Others (supra), had observed that since the Hon'ble Supreme Court in the case of Ashish Agarwal, *supra*, as a one-time measure exercised the powers under Article 142 of the Constitution of India, and permitted the Revenue to proceed under the substituted provisions, therefore, on the same terms as the petitions before them were being allowed only on the procedural flaw, hence right conferred on the Revenue would remain reserved to proceed further if they so want from the stage of the order of the Supreme Court in the case of Ashish Agarwal, *supra*. We, thus, respectfully follow the aforesaid observation of the Hon'ble High Court and, on the same terms, allow the same liberty to the revenue regarding the present appeal.

31. We would further observe that the Hon'ble High Court of Jurisdiction in its order in the case of **Yashnu Yasasvi Polucherla Vs. Income-tax Officer (2025) 179 taxmann.com 470 (Telangana), had** held that as its earlier order in the case of **Kankanala Ravindra Reddy Vs. ITO & 2 Others (supra)** is subjected to challenge before the Hon'ble Supreme Court in SLP No.3574 of 2024, preferred by the Income Tax Department, therefore, the allowing of the writ petition in the case before them is subject to the outcome of the aforesaid SLP

preferred by the Revenue against its decision in the case of Kankanala Ravindra Reddy Vs. ITO & 2 Others (supra). Thus, the Hon'ble High Court had allowed liberty to either of the parties, if they so want, to move an appropriate petition seeking revival of this writ petition in the light of the decision of the Hon'ble Supreme Court in the pending "Special Leave Petition" (SLP) on the very same issue. We, thus, respectfully follow the aforesaid observation of the Hon'ble Jurisdictional High Court and, thus, on the same terms allow liberty to either of the parties before us to seek revival of the matter in light of the decision of the Hon'ble Supreme Court in the aforesaid SLP.

32. Resultantly, the appeal filed by the assessee society is allowed in terms of our aforesaid observations.

AY: 2016-17 (ITA No. 1144/Hyd/2025)
AY: 2018-19 (ITA No. 1145/Hyd/2025)

33. As the facts and the issue involved in the captioned appeals remain the same as were before us in the assessee's appeal for AY 2015-16 in ITA No 1143/Hyd/2025, therefore, the observations therein recorded shall apply mutatis mutandis for disposing of the present appeals.

34. We, thus, in terms of our observations recorded while disposing of the assessee's appeal for AY 2015-16 in ITA No. 1143/Hyd/2025, quash the respective assessments for want of

valid assumption of jurisdiction by the FAO for framing the respective impugned assessments based on the notices issued under Section 148 of the Act by the JAO.

35. Resultantly, the captioned appeals are allowed in terms of our aforesaid observations.

36. In the result, all three appeals of the assesssee, i.e., ITA Nos. 1143 to 1145/Hyd/2025 are allowed in terms of our aforesaid observations.

Order pronounced in the open court on 24th December, 2025.

Sd/- **(मधुसूदन सावडिया)** **(MADHUSUDAN SAWDIA)** **लेखासदस्य/ACCOUNTANT MEMBER**	**Sd/-** **(रवीश सूद)** **(RAVISH SOOD)** **न्यायिकसदस्य/JUDICIAL MEMBER**

Hyderabad, dated 24.12.2025.
***OKK/sps*

आदेशकीप्रतिलिपिअग्रेषित/ **Copy of the order forwarded to:-**

1.	निर्धारिती/The Assessee	:	The Ookal Farmers Service Cooperative Society Limited, Oookal Haveliookal, Heveli, Geesukonda, Warangal, Telangana-506330.
2.	राजस्व/ The Revenue	:	Income Tax Officer, Ward-1, Warangal, Telangana.
3.	The Principal Commissioner of Income Tax, Hyderabad.		
4.	विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण /DR,ITAT, Hyderabad.		
5.	The Commissioner of Income Tax		
6.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad.