

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'SMC' Bench, Hyderabad

BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT
AND
SHRI MANJUNATHA G. ACCOUNTANT MEMBER

आ.अपी.सं / **ITA No.1456/Hyd/2025**
Assessment Year 2017-2018

The Income Tax Officer, Ward-1, NIZAMABAD.	vs.	Bharat Thakker Kalpana NIZAMABAD – 503 001. PAN AFKPT4232Q
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:		-None-
राजस्व द्वारा / Revenue by:		MS P Sumitha, Sr. AR
सुनवाई की तारीख / Date of hearing:		13.01.2026
घोषणा की तारीख / Pronouncement:		28.01.2026

आदेश / ORDER

PER VIJAY PAL RAO, VICE PRESIDENT :

This appeal by the Revenue is directed against the Order dated 29.07.2025 of the learned CIT(A)-National Faceless Appeal Centre [in short "NFAC], Delhi, for the assessment year 2017-2018.

2. The Revenue has raised the following grounds in the instant appeal:

1. *“The NFAC ought to have upheld the order both on facts and in law.*
2. *On the facts and circumstance of the case and in law, the NFAC erred in treating the notice u/s 148 issued by the JAO as invalid and issued without jurisdiction as per the provisions of section 151A of the Act.*
3. *The NFAC erred not considering the decision given by Hon'ble Calcutta High Court in the case of M/s Triton Overseas Pvt Ltd Vs Union of India in WPO/1566/2023 and which were decided the same issue in favour of Revenue.*
4. *Further, the NFAC ignored the MA filed (vide no. 39717/2025 dated 22.07.2025) by the department in the decision of Hon'ble Supreme Court in the case of Shri Deepanjan Roy Vs. ADIT dated 16/07/2025 relied upon by and the same is pending for adjudication.*
5. *Any other grounds that may be urged at the time of hearing.”*

3. None appeared on behalf of the assessee despite repeated notices were issued. Therefore, the Bench proposed to hear and dispose of this appeal ex-parte.

4. The Revenue has challenged the Order of the learned CIT(A) whereby the notice issued by the Jurisdictional Assessing Officer [in short "JAO"] u/sec.148 of the Income Tax Act [in short "the Act"], 1961 was held as invalid without following the Faceless Assessment Scheme and provisions of sec.151A of the Act.

5. The learned DR has relied upon the Orders of the Assessing Officer and submitted that the issue is pending adjudication before the Hon'ble Supreme Court in the case of Hexaware Technology Ltd., in the SLP filed by the Department against the Judgment of Hon'ble High Court of Bombay and, therefore, the same may be kept in abeyance till the outcome of the SLP filed by the Department before the Hon'ble Supreme Court.

6. We have heard the learned DR and considered the relevant material on record. We note that the assessee has filed return of income on 31.03.2018 declaring total income of Rs.7,41,870/- which was accepted by the Assessing Officer during the course of assessment proceedings u/sec.143(1)(a)

of the Act. Subsequently, as per the information available with the department, during the financial year 2016-2017 relevant to assessment year under consideration the assessee has introduced the capital of Rs.2,91,75,000/- by way of won funds/transfer form accounts to WDL by TR/Cheque deposit/ cash deposit / self / DEPTFR / OWN CHQ XFER DP / Cheque deposit by TR etc. The case of the assessee was reopened u/sec.147 of the Act and the Jurisdictional Assessing Officer, Ward-1, Nizamabad has issued notice under sec.148 of the Act, dated 22.07.2022. In response to the said notice, the assessee has filed return of income on 03.08.2022 declaring total income of Rs.7,41,870/-. During the course of assessment proceedings, the Assessing Officer has issued various notices, and the assessee has filed her submissions. The Assessing Officer assessed the income of the assessee at Rs.32,51,870/-, against which, the assessee carried the matter in appeal before the learned CIT(A) challenging the validity of notice issued by JAO u / sec.148 of the Act instead of Faceless Assessment Officer [in short

“FAO”] as per the National Faceless Assessment Scheme. The learned CIT(A) allowed the appeal of the assessee by observing that issuance of notice u/sec.148 in faceless manner is mandatory and therefore, treated the notice issued u/sec.148 of the Act by the JAO as invalid and consequently the assessment order becomes invalid. Thus, it is clear that the notice issued u/sec.148A(b), Order u/sec.148A(d) and notice u/sec.148 for reopening of the assessment were issued by the Jurisdictional Assessing Officer, without following the procedure as per the National Faceless Assessment Scheme prescribed u/sec.144B read with Section 151A of the Act.

7. After considering the submissions of the learned DR and careful perusal of the Order of the learned CIT(A), at the outset we note that an identical issue has been considered by the Hon'ble Jurisdictional High Court for the State of Telangana in the case of **Tecumseh Products India (P.) Ltd., vs. DCIT [2025] 174 taxmann.com 1203 (Telangana)** in Paras-4 to 19 as under:

“4. The contention of the petitioner is that the issue of proceedings being in violation of the Finance Act, 2021 i.e., the impugned notices under Section 148A and Section 148 of the Act not being issued in a faceless manner, have already been dealt with and decided by this Court in the case of *Kankanala Ravindra Reddy v. ITO* [2023] 156 taxmann.com 178/295 Taxman 652 (TELANGANA) 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. The said judgment passed by this Court has also been subsequently followed in a large number of writ petitions which were allowed on similar terms.

5. Down the line, we find that the same issue has also been decided against the Revenue by various High Courts i.e., by the Bombay High Court in the case of *Hexaware Technologies Ltd. v. Asstt. CIT* [2024] 162 taxmann.com 225/464 ITR 430, Gauhati High Court in the case of *Ram Narayan Sah v. Union of India* [2024] 163 taxmann.com 478/299 Taxman 276. Punjab and Haryana High Court in the case of *Jatinder Singh Bhangu v. Union of India* [2024] 165 taxmann.com 115/300 Taxman 228/466 ITR 474. and Telangana High Court in the case of *Sri Venkataramana Reddy Patloola v. Dy. CIT* [2024] 167 taxmann.com 411/468 ITR 181. where the issue was in respect of international taxation, Bombay High Court in the case of *Abhin Anilkumar Shah v. ITO, International Taxation* [2024] 166 taxmann.com 679/301 Taxman 156/468 ITR 350. which is again on international taxation and central circle, High Court of Himachal Pradesh in the case of *Govind Singh v. ITO* [2024] 165 taxmann.com 113/300

Taxman 216 . Gujarat High Court in the case of Mansukhbhai Dahyabhai Radadiya v. ITO 2024 SCC OnLine Guj 4012, Jharkand High Court in the case of Shyam Sundar Saw v. Union of India 2025 SCC OnLine Jhar 287, Rajasthan High Court in the case of Sharda Devi Chhajer v. ITO [2023: RJ-JD:4984-DB] and batch of writ petitions which stood decided on 19.03.2024. Similar views have also been taken by the Division Bench of Calcutta High Court in the case of Girdhar Gopal Dalmia v. Union of India [M.A.T 1690 of 2023, dated 25-09-2024].

6. *Even though the same issue having been decided by a large number of High Courts, we are still confronted with large filing of identical matters on daily basis ranging between 5 to 10 writ petitions. That upon the instructions being sought from the Department, they have been taking a solitary ground that the decision of the Bombay High Court in the case of Hexaware Technologies Ltd., (2 supra) as also the one which has been decided by this Court in the case of Kanakala Ravindra Reddy (1 supra) has been subjected to challenge in a Special Leave Petition i.e., SLP No.3574 of 2024 before the Hon'ble Supreme Court and the Hon'ble Supreme Court is seized of the matter. In addition, there are about 1200 SLPs also filed arising out of the same issue being decided by various High Courts.*

7. *To a query being put to the learned counsel for the Revenue, they have categorically accepted the fact that there is no interim order granted by the Hon'ble Supreme Court in any of these matters pending before it. Meanwhile, fresh writ petitions of identical nature are being piled up before this Bench on daily basis and the pendency is getting increased on matter which otherwise has already been dealt and decided by this very High Court itself.*

8. *On the one hand, even though the order of this Court that was passed as early as on 14.09.2023 and more 16 months have lapsed, till date, we do not find any remedial steps having been taken by the Income Tax Department to take appropriate steps to either hold back issuance of notice under Section 148A and under Section 148 of the Act by the jurisdictional Assessing Officer, rather the authorities concerned in the teeth of series of decisions by all the major High Courts in India are continuously still initiating proceedings under Section 148A of the Act and also initiating proceedings under Section 148 of the Act in contravention to the amendments brought into the Income Tax Act pursuant to the Finance Act, 2020 as also the Finance Act 2021.*

9. *Upon a query being put as to why can't this writ petition be disposed of in the teeth of the decision rendered by this Court in the case of Kanakala Ravindra Reddy (1 supra), learned Standing Counsel for the Income Tax Department contends that those would unnecessarily burden the Income Tax Department where they would be required to file equal number of SLPs before the Hon'ble Supreme Court and it would be further burdening the exchequer of the Union of India. It was also the contention of the learned Standing Counsel that no prejudice would be caused to the interest of the petitioners in case if this writ petition is kept pending till the finalization of the SLPs pending before the Hon'ble Supreme Court and the fact that the petitioner is already enjoying the benefit of interim protection. Nonetheless, on the earlier query of this Court as to why the Income Tax Department have not come out with a mechanism to issue appropriate instructions or to take appropriate steps in ensuring that proceedings under Section 148A of the Act as also the assessment orders under Section 148 of the Act are kept in a hold in the light of the decisions decided by the various High Courts, it was submitted by the learned Standing Counsel*

that the said steps can only be taken at the level of CBDT as any such steps would have to be taken Pan India and cannot be limited to any of these jurisdictional High Courts.

10. *As a result of which, what we are facing is steep increase of litigation day in and day out even though various orders have been passed by this High Court allowing writ petitions on the very same issue. The Income Tax authorities concerned are still even now in 2025 also initiating proceedings in contravention to the provisions of Section 151A of the Act and as a result by now, more than 600 to 700 petitions have been already got piled up before this High Court on an issue which otherwise stands squarely covered by the judgment of this Court in the case of Kanakala Ravindra Reddy (1 supra). What is also surprising is the fact that though while allowing the writ petitions in the case of Kanakala Ravindra Reddy (1 supra), the Division Bench while reserving the right of the Revenue, has also protected the interest of the petitioners insofar as the liberty which was granted to the Revenue for initiating fresh proceedings strictly in accordance with the amended provisions of the Act, as amended by the Finance Act, 2020 and the Finance Act, 2021. The petitioner assessee would be entitled to challenge or raise the other legal objections if the Revenue initiates fresh proceedings. The Department has made no endeavour in availing the said liberty that was reserved for the Revenue. On the contrary, they have been still sticking on to the stand, which this High Court as well as many other High Courts already held to be bad.*

11. *It appears that because of the aforesaid liberty that this High Court had granted permitting the Revenue for initiating fresh proceedings as a one-time measure in a faceless manner, the Income Tax Department wants to take advantage of the same by*

protracting these proceedings which would enable them to meet the limitation that would otherwise come in the way. Likewise, if the writ petition is kept pending for a considerable long period of time and finally at a later stage if the Hon'ble Supreme Court confirms the decision taken by this High Court as also by the other High Courts in which the SLPs are still pending, the Income Tax Department would get the advantage of the liberty that is otherwise protected in favour of the Revenue for initiation of fresh proceedings from the disposal of these matters at a much later stage which would be advantageous and beneficial to the Revenue and would be equally disadvantageous and detrimental so far as interest of the assesses are concerned. As a consequence, the Income Tax Department gets an extended period of time for initiation of fresh proceedings.

12. *The alarming trend of docket explosion in this Court, despite the clear precedent set in Kanakala Ravindra Reddy (1 supra), is a matter of grave concern. The Income Tax Department's persistent initiation of fresh proceedings, disregarding the established judicial pronouncements, has led to an unprecedented surge in litigation with over 600-700 petitions piling up on the same issue. This deliberate approach not only undermines the principle of judicial precedent but also strains the judicial resources unnecessarily. The Department's strategy of awaiting the Supreme Court's decision on pending SLPs while continuing to initiate fresh proceedings appears to be a calculated move to buy time and circumvent limitation periods, rather than adhering to the established legal position. Such conduct raises serious questions about the administrative efficiency and the respect for judicial pronouncements, particularly when this Court has already*

provided a balanced approach by preserving both the Revenue's rights and assesses interests.

13. *Another aspect which needs to be considered is that in fact it should have been realized by the Income Tax Department itself and should have found out via media in ensuring that proceedings under Sections 148-A and 148 should not have been issued in a faceless manner, at least till the Hon'ble Supreme Court decide the twelve hundred (1200) odd SLPs which it is already seized of or, at least the Income Tax Department should have found out some remedial steps to ensure that wherever the authorities intend to initiate proceedings under Sections 148-A and 148, other than in a faceless manner, the proceedings should have been deferred without precipitating the matter further intimating the assessee that they shall initiate appropriate proceedings only after the SLP's are decided by the Hon'ble Supreme Court on the very same issue. This again, the Income Tax Department, has not been able to give a convincing reply, except for the fact that such a decision if at all has to be taken, has to be taken for the whole of India, and which otherwise has to be by way of a policy decision and that too at the level of Central Board of Direct Taxes. Though the learned Standing Counsel for the Income Tax Department contended that the Delhi High Court dismissed a writ petition of similar nature, on the one hand when the High Court is struggling to reduce its pendency, such notices which are under challenge in this writ petition are forcing the assessee to knock the doors of this High Court resulting in filing of hundreds of new writ petitions which in the long run not only affects the disposal of the writ petitions but also consumes substantial time of the Bench in hearing these matters again and again on daily basis. Admittedly, in spite of the matter before the Hon'ble Supreme Court having been taken on many occasions, the Hon'ble Supreme Court which is seized of the matter has been*

reluctant in granting any interim protection to the Income Tax Department. Yet, the authorities concerned at the State level are not ready to accept the verdict passed by a majority of High Courts of different States on the same issue; and to make things further worse, the Income Tax Department is showing audacity by issuing notices continuously under Sections 148-A and 148 through the jurisdictional Assessing Officer whereas it ought to have been only in the faceless manner.

14. *In the case of Bank of India v. Asstt. CIT [2025] 170 taxmann.com 422 (Bom) on an issue whether it was justifiable on the part of the Income Tax Department in not following an order passed by the adjudicating authority only on the ground that the appeals are pending, the Division Bench of the High Court of Bombay held at paragraph No.25 as under, viz., :*

"25. Mr. Paridwalla has rightly drawn out attention to the decision of this Court in Commissioner of Income Tax v. Smt. Godavaridevi Saraf [1978] 113 ITR 589 (Bombay) as also the recent decision of the coordinate Bench of this Court in Samp Furniture (P) Ltd. v. ITO [2024] 165 taxmann.com 581/300 Taxman 452 (Bombay) of which one of us (Justice G.S. Kulkarni) was a member, wherein the Court categorically observed that the Revenue having not "accepted" the judgment of the High Court would not mean that till the same is set aside in a manner known to law, it would loose its binding force. Referring to the decision of the Supreme Court in Union of India v. Kamlakshi Finance Corporation Ltd. [1992] taxmann.com 16/55 ELT 433 (SC), the Court observed that the approach of the officials of Revenue of treating decisions being "not acceptable" was criticized by the

Supreme Court. In such decision, following are the relevant observations made by the Supreme Court.

"6. Sri Reddy is perhaps right in saying that the officers were not actuated by any mala fides in passing the impugned orders. They perhaps genuinely felt that the claim of the assessee was not tenable and that, if it was accepted, the Revenue would suffer. But what Sri Reddy overlooks is that we are not concerned here with the correctness or otherwise of their conclusion or of any factual malafides but with the fact that the officers, in reaching in their conclusion, by-passed two appellate orders in regard to the same issue which were placed before them, one of the Collector (Appeals) and the other of the Tribunal. The High Court has, in our view, rightly criticized this conduct of the Assistant Collectors and the harassment to the assessee caused by the failure of these officers to give effect to the orders of authorities higher to them in the appellate hierarchy. It cannot be too vehemently emphasized that it is of utmost importance that, in disposing of the quasi-judicial issues before them, revenue officers are bound by the decisions of the appellate authorities. The order of the Appellate Collector is binding on the Assistant Collectors working within his jurisdiction and the order of the Tribunal is binding upon the Assistant Collectors and the Appellate Collectors who function under the jurisdiction of the Tribunal. The principles of judicial discipline require that the orders of the higher appellate authorities should be

followed unreservedly by the subordinate authorities. The mere fact that the order of the appellate authority is not "acceptable" to the department - in itself an objectionable phrase -and is the subject matter of an appeal can furnish no ground for not following it unless its operation has been suspended by a competent court. If this healthy rule is not followed, the result will only be undue harassment to assesses and chaos in administration of tax laws.

.....

12. *We have dealt with this aspect at some length, because it has been suggested by the learned Additional Solicitor General that the observations made by the High Court, have been harsh on the officers. It is clear that the observations of the High Court, seemingly vehement, and apparently unpalatable to the Revenue, are only intended to curb a tendency in revenue matters which, if allowed to become widespread, could result in considerable harassment to the assesses-public without any benefit to the Revenue. We would like to say that the department should take these observations in the proper spirit. The observations of the High Court should be kept in mind in future and the utmost regard should be paid by the adjudicating authorities and the appellate authorities to the requirements of judicial discipline and the need for giving effect to the orders of the higher appellate authorities which are binding on them."*

15. *What is worrying this Bench more is the fact that an endeavour is being made whole heartedly to ensure not to generate further litigation on issues which have been laid to rest by a large*

number of High Courts all of whom have taken a consistent stand that the action of the Income Tax Department being violative of the Finance Act, 2020 and Finance Act, 2021. Now, in order to protect the interest of the Revenue as also that of the assessee, it would be trite at this juncture, if we dispose of the writ petition with an observation/direction that the disposal of the instant writ petition in terms of the judgment rendered by this High Court in the case of Kankanala Ravindra Reddy (1 supra) shall however be subject to the outcome of the SLPs which were filed by the Income Tax Department and which is pending consideration before the Hon'ble Supreme Court.

16. *In the given facts and circumstances, this Bench is of the considered opinion that unless and until we do not timely dispose of matters which are squarely covered by the decision of this Court and which stands fortified by the decisions of the various other High Courts on the very same issue, the pendency of this High Court would further be burdened which otherwise can be decided and disposed of as a covered matter.*

17. *So far as the interest of the Revenue is concerned, we are of the considered opinion that the interest of the Revenue has already been considered and protected, as has been observed in paragraphs 36, 37 and 38 of the order which, for ready reference, is reproduced hereunder:*

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.*

18. *We would only further like to make observations that since we are inclined to dispose of the instant writ petition, conscious of the fact that the earlier order of this High Court in the case of Kanakala Ravindra Reddy (1 supra) is subjected to challenge before the Hon'ble Supreme Court in SLP No.3574 of 2024, preferred by the Income Tax Department, we make it clear that allowing of the instant writ petition is subject to outcome of the*

aforesaid SLP preferred by the Revenue against the decision of this High Court in the case of Kanakala Ravindra Reddy (1 supra). This, in other words, would mean that either of the parties, if they so want, may 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 SLP on the very same issue.

19. *Accordingly, the instant writ petition stands allowed in favour of the assessee so far as the issue of jurisdiction is concerned. As a consequence, the impugned notice under challenge under Sections 148-A and 148 stands set aside/quashed. The consequential orders, if any, also stand set aside/quashed in similar terms as have been passed by this High Court in the case of Kankanala Ravindra Reddy (1 supra). There shall be no order as to costs.”*

8. Respectfully following the Judgment of Hon'ble Jurisdictional High Court of Telangana in the case of **Tecumseh Products India (P.) Ltd., vs. DCIT (supra)** as well as to maintain rule of consistency, we decide this issue in favour of the assessee by holding that the notice issued u/sec.148 of the Act by the JAO without following the procedure provided u/sec.144B read with Section 151A is invalid and liable to be quashed. We Order accordingly.

9. Since the matter is pending adjudication before the Hon'ble Supreme Court in the case of Hexaware Technology Ltd., therefore, the parties are at liberty to get this appeal revived as per the outcome of the SLP on the same issue pending adjudication before the Hon'ble Supreme Court. Since, we have quashed the notice issued u/sec.148 of the Act, it also vitiates the re-assessment order passed by the Assessing Officer, therefore, we do not propose to decide other grounds raised by the assessee in the grounds of appeal at this stage and kept the same open, if need arises. Hence, the other issues raised by the assessee are kept open.

10. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open Court on 28.01.2026.

Sd/-
[MANJUNATHA G.]
ACCOUNTANT MEMBER

Sd/-
[VIJAY PAL RAO]
VICE PRESIDENT

Hyderabad, Dated 28th January 2026.

VBP

Copy to :

1.	The Income Tax Officer, Ward-1, 6-2-157/22, Aaykar Bhavan, Subhash Nagar, NIZAMABAD. PIN – 503 002. Telangana.
2.	Bharat Thakker Kalpana, 6-2-157/22, Subhash Nagar, NIZAMABAD – 503 001. Telangana.
3.	The Pr. CIT, Hyderabad.
4.	The DR, ITAT, “SMC” Bench, Hyderabad.
5.	Guard file.

BY ORDER

//True copy//