

**IN THE INCOME-TAX APPELLATE TRIBUNAL,
MUMBAI“SMC” BENCH, MUMBAI
BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER**

**ITA No. 5019 & 5020 /MUM/2025
(AYs: 2015-16 & 2016-17)**

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| Govind Mansharam Dingwa 606, 3 Navratna CHS, Prabhat Colony, Near JakuCluSantacruz (E), Mumbai-400055. | vs. | Income Tax Officer- 22(1)(1) Room No. 319, Piramal Chambers, Lalbaug, Mumbai-400012. |
| PAN/GIR No:AQEPD9599B | | |
| (Appellant) | | (Respondent) |

| | |
|------------------------------|---------------------------------|
| Appellant by | Shri Jigar Mehta |
| Respondent by | Shri Rajesh Sakhardande, Sr. DR |
| Date of Hearing | 30.10.2025 |
| Date of Pronouncement | 30.01.2026 |

ORDER

PER SANDEEP GOSAIN, JM:

These two appeals have been filed by the assessee challenging the impugned order dated 30.06.2025 passed under section 250 of the Income-tax Act, 1961 (in short, 'Act') by the learned Commissioner of Income-Tax, National Faceless Appeal Centre[in short, 'CIT(A), NFAC'], Delhi, for the Assessment Year 2016-17.

3. Since all the issues involved in these appeals are common and identical and belongs to one assessee therefore, they have been clubbed, heard together and consolidated order is being passed. Firstly we shall take up **ITA No. 5020/Mum/2025, A.Y 2016-17** as lead case and facts narrated therein.

ITA No. 5020/Mum/2025, A.Y 2016-17

The grounds of appeal raised by the assessee are as under:

“ITA No. 5020/MUM/2025

1. (a) The order passed u/s 148A(d) of the Act, 1961 dated 31.03.2023 and notice u/s 148 of the Act dated 31.03.2023 issued by the Ld. Income Tax Officer- 22(1)(1), Mumbai without providing material are invalid, non-est and bad in law

(b) The notice issued u/s 148 of the Act dated 31.03.2023 is time barred as it is beyond three years from the end of relevant assessment year.

(c) The assessment order passed u/s 147 r.w.s. 144 r.w.s. 144B of the Act dated 13.03.2024 is invalid, non-est and bad in law.

2. (a). The Ld. NFAC erred in law and facts in confirming the addition of Rs. 27,47,200/-, being the amount of cash deposited in Canara Bank and ICICI bank u/s 69A of the Act without appreciating the facts of the case and the submission of the appellant.

(b). The Ld. NFAC erred in law and facts in confirming the addition of Rs. 27,47,200/-, being the amount of cash deposited in Canara Bank and ICICI bank u/s 69A of the Act without appreciating the fact that the case was reopened on the basis of non-existent reason and addition made on other ground as opposed to reopening.

3. *All the above grounds are independent and without prejudice to each other.*

4. *The Appellant craves leave to add, amend, delete and modify the above grounds of appeal.*

ITA No. 5019/MUM/2025

1. (a) *The order passed u/s 148A(d) of the Act, 1961 dated 20.04.2022 and notice u/s 148 of the Act dated 20.04.2022 issued by the Ld. Income Tax Officer-22(1)(1), Mumbai are invalid, non-est and bad in law*

(b) *The notice u/s 148 of the Act dated 20.04.2022 issued is beyond three years from the end of relevant assessment year is time barred.*

(c) *The assessment order passed u/s 147 r.w.s. 144 r.w.s. 144B of the Act dated 13.03.2024 is invalid, non-est and bad in law*

2. *The Ld. NFAC erred in law and facts in confirming the addition of Rs. 28,06,200/-, being the amount of cash deposited in Canara Bank and ICICI bank u/s 69A of the Act without appreciating the facts of the case and the submission of the appellant.*

3. *All the above grounds are independent and without prejudice to each other.*

4. *The Appellant craves leave to add, amend, delete and modify the above grounds of appeal.”*

4. **Ground No. 1 (a) to (c)** raised by the assessee relates to challenging the order of Ld. CIT(A) in upholding the order of assessment passed by AO u/s 148A(d) of the Act. Therefore we have decided to adjudicate these grounds through the present consolidated order.

5. We have heard the rival submissions, perused the material placed on record, judgments cited before us and also the orders passed by the revenue authorities. From the records, we noticed that the case of the

assessee was reopened by the Jurisdictional Assessing Officer (JAO) based on the information that during the year under consideration, the assessee had involved in cash transactions aggregating to Rs. 2,00,00,000/-. However, during the assessment proceedings, aggregate cash deposits made during the year under consideration by the assessee was found to be Rs. 27,36,600/-. Therefore on this background Ld. AR reiterated the same arguments as were raised by him before the Ld. CIT(A), the relevant portion of the submissions of the assessee are reproduced herein below:

7. Vide ground of appeal no.1 the appellant has challenged the validity of Re- assessment proceedings. In respect to challenging the re-assessment proceedings, the appellant has submitted the submission on 16.05.2025, the relevant portion of his submission is reproduced here under:-

"... The assessing officer shall, within thirty days from today provide to the respective assessee information and material relied upon by the Revenue, so that the assessee can reply to the show-cause notices within two weeks thereafter;" [Emphasis Supplied]

V. Further, the following observations of the various High Courts on the aspect of providing material relied upon along with notice issued u/s. 148A(b) of the Act also merit attention as under:

(a) Anurag Gupta v. ITO [454 ITR 326 (Bom HC)] It goes without saying that providing information to the Petitioner, without furnishing the material based upon which the

information is provided, would render an assessee handicapped in submitting an effective reply to the show cause notice, thereby rendering the purpose and spirit of section 148A(b) of the Act totally illusive and ephemeral. The fact that the material also was required to be supplied can very well be gauged from the clear directions issued by the Supreme Court in the case of Ashish Agarwal (supra).

(b) Udaan Hotels & Resorts Private Ltd. v. UOI & Ors. [W.P.A. 1223 of 2023 (Cal HC)]

It appears to this Court that materials based on which opinion was formed by the Assessing Officer needs to be disclosed to the petitioner in contemplation of the provisions as provided under Section 148A(a), (b) and (c).

(c) Chotanagpur Diocesson Trust Asson. v. UOI 296 [Taxman 16 (Jha HC)]

...it is necessary to clarify that though conducting an enquiry is not a condition precedent for issuance of notice u/s 148A(b) of the I.T Act, 1961; however, if the respondent department conducts an enquiry; then, it is mandatory for the respondent department to provide the report of the enquiry along with the Notice issued u/s 148A(b) of the I.T Act, 1961...

The very essence of section 148A(b) of the I.T Act, 1961 is to provide opportunity to the petitioner. Without sharing/providing the information and supporting documents to the petitioner, the Respondents had clearly frustrated/violated the purpose of section 148A(b) of the I.T Act, 1961 and further, restrained the petitioner to present his stand and submit his explanation in the best possible manner

On the basis of the aforesaid discussion, it may be appreciated that providing the appellant of material which are relied upon for arriving at the conclusion that the ld. Assessing Officer has information which suggests that income chargeable to tax for

1. Validity of notice u/s. 148A(b) of the Act

i. The notice u/s. 148A(b) of the Act was issued to the Appellant on 01.03.2022 requiring the appellant to show cause as to why the notice u/s. 148 of the Act should not be issued based on the information that the total of cash transactions amounting to Rs. 2,00,00,000/- has escaped assessment. Your Honour may note that the assessee has not been provided with any document whatsoever to arrive at the conclusion mentioned in the annexure to notice u/s. 148A(b) of the Act.

ii. Your Honour may note that the failure to provide the material relied upon as described above herein results in violation of principles of natural as the appellant was precluded from filing an effective reply to the said show cause notice issued u/s. 148A(b) of the Act. It is a settled law that the assessee should be provided with a copy of any and all the material which is the basis of information suggesting that income chargeable to tax has escaped assessment alleging any escapement of income. Failure to do so results in rendering the entire reassessment proceedings a nullity.

iii. Your Honour's attention is invited to CBDT instruction F. No. 299/10/2022-Dir (Inv. III)/611 dated 01/08/2022 wherein at para 2(vii), the template of show-cause notice has been specified as Annexure A1. Annexure A1 of the said instruction after mentioning the format mandates the following guidelines for enclosures:

The AO should enclose copy of all the relevant "Information" available on which reliance is being placed, along with supporting documents (if any).

In the cases where information is received from the Investigation Wing or any other law enforcement agency, details of letter, brief summary of information along with relevant portion of such report and details of relied upon documents may be enclosed. Such a portion as does not

bear reference to the assessee concerned may be appropriately redacted.

Details of enquiry conducted, if any, may be shared if reliance is being placed by the AO on it.

Judicial order (i.e. case laws) on which reliance is being placed, if any.

iv. The said view that assessee should be provided with the material relied upon by the Assessing Officer has been upheld by the Hon'ble Apex Court in the case of Union of India V/s. Ashish Agarwal [2022] 138 taxmann.com 64 (SC) in paragraph 10 of the said decision as under:

the Assessment Year has escaped assessment must be provided along with the Notice u/s. 148A(b) of the Act failing which the notice so issued is rendered vulnerable. Since the notice u/s. 148A(b) is the plinth on which the entire edifice of reassessment stands, any breach of procedure and principles at the said stage results in rendering the entire assessment vulnerable and bad in law.

2. Validity of order u/s. 148A(d) of the Act in accordance with the provisions of section 151 of the Act.

Your Honour's attention is invited to the provisions of Section 149 of the Act wherein the time limit for issuing the notice is mentioned. The relevant extract of Section 149 of the Act is reproduced here for Your Honour's kind perusal:

"(1) No notice under section 148 shall be issued for the relevant assessment year,

(a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);

(b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of-

- (i) an asset;
- (ii) expenditure in respect of a transaction or in relation to an event or occasion; or
- (iii) an entry or entries in the books of account, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more:]"

In view of the aforesaid provision it can be understood that, a notice u/s. 148 of the Act cannot be issued after the expiry of period of 3 years from the relevant year. Therefore, the notice cannot be issued after 31.03.2020, however, the notice may be issued after the expiry of period of 3 years from the relevant year, if the income escaped has exceeded Rs. 50,00,000/-. In the present case the Ld. JAO re-opened the case based on the information that during the year under consideration, the appellant was involved in cash transaction aggregating to Rs.2 Crores. However, it may be noted that the aggregate cash deposit made during the year under consideration was Rs. 27,36,600/- and total cash withdrawal from both bank accounts amounts to Rs. 28,04,700/-. Accordingly, as a matter of fact there is no tax has been escaped assessment for the transaction amount exceeding Rs.50,00,000/-.

In light of the above, the issuance of notice under Section 148 after a period of three years on the ground that income exceeding Rs. 50,00,000/- has escaped assessment is factually incorrect. The said notice is thus liable to be quashed as invalid and bad in law.

Further reliance is placed on the judgement of Hon'ble Rajasthan High Court in the case of Bijendra Singh v/s Income Tax Officer wherein it was held as under: -

"Though the notice was issued on the assumption that the cash deposit was Rs. 59.75 lacs by invoke extended period of limitation available under section 149(1)(b), as a fact, it was found that the same was Rs. 33.62 lacs only

and once the said aspect was clear to the Assessing Officer, he lost his jurisdiction to further continue with the proceedings as the limitation under section 149(1)(a) of three years would trigger and he would lose the jurisdiction on account of limitation, as the amount was less than Rs. 50 lacs. [Para 22]

However, the Assessing Officer while passing the order under section 148A(d) in a wholly mechanical manner rejected the plea of the assessee and proceeded to issue notice under section 148. Whereafter proceedings were sought to be converted into notice under section 69A read with section 115BBE, which action also is wholly impermissible. Once the notice under section 148A(b) is found to be barred by limitation, no further proceedings could be initiated under any of the provisions of the Act and the purported exercise of jurisdiction pursuant to notice under section 148A(b) could not be initiated or proceeded with. [Para 23]"

In view of the above, the order passed in the present case u/s 148A(d) of the Act on the assumption of the income escaped to the tune of Rs.2 Crores by invoking extended period of limitation available under section 149(1)(b) is invalid.

3. Validity of notice u/s. 148 of the Act: -

i. Your Honour may note that Ld. JAO has issued the notice u/s. 148 of the Act dated 31.03.2023 in the present case. Your Honour's attention is invited to Notification No. 18/2022 dated 29.03.2022 issued by the Hon'ble CBDT under the powers conferred under section 151A of the Act. Vide para 3 of the said notification, the Hon'ble CBDT has mandated issuance of notice in faceless manner u/s. 148 of the Act with effect from the date of the notification. The relevant portion (emphasis supplied) of the said notification is as under:

For the purpose of this Scheme,

(a) assessment, reassessment or recomputation under section 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. In view of above, it may be appreciated that in the present case since the notice u/s. 148 of the Act dated 31.03.2023 i.e. after the date of aforesaid notification is not issued through automated allocation in a faceless manner and therefore, the said notice is invalid and bad in law.

ii. The issue of determination of validity of notice issued by the Jurisdictional Assessing Officer came up before the Hon'ble Jurisdictional Bombay High Court in the case of *Hexaware Technologies Limited v/s. ACIT [2024] 162 taxmann.com 225 (Bom HC)*. The Hon'ble Court in the said case quashed the notice issued u/s. 148 of the Act observing as under:

"...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 29th March, 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.

...The Scheme is categoric as stated aforesaid that the notice under Section 148 of the Act shall be issued through automated allocation and in a faceless manner. The Scheme clearly provides that the notice under Section 148 of the Act is required to be issued by NFAC and not the JAO....

Further the Hon'ble Telangana High Court in the case of Kankanala Ravindra Reddy vs. Income Tax Officer has held that in view of the provisions of Section 151A of the Act read with the Scheme dated 29th March 2022 the notices issued by the JAOs are invalid and bad in law. We are also of the same view."

iii. Similarly, the Hon'ble Telangana High Court in the case of Kankanala Ravindra Reddy vs. ITO (2023) 156 taxmann.com 178 (Telangana HC) has also clarified the aforesaid position:

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.

iv. It may be noted that the Hon'ble Gauhati High Court in the case of Ram Narayan Sah vs. UOI [2024] 163 taxmann.com 478 (Gau.) has held that

9. Perusal of the Section 151A along with the scheme reveals that the statute in order to obviate prejudice and bias has resorted to issuance of notices by the automated allocation through the risk management strategy.

The Judgments referred to by the learned counsel for the petitioner supports the contention raised by the writ petition and hold that the notices are required to be issued in an automated manner without there being any interface between the department and the assessee.

...12. If that be so then the department is required to follow the procedure prescribed in terms of the scheme and accordingly the department will withdraw the notices and thereafter issue fresh notices if permissible under law as per the scheme read with Section 151A.

On the basis of the aforesaid discussion, it may be appreciated that issuance of notice u/s. 148 by the NFAC is mandatory after the issuance of notification no 18/2022 dated 29.03.2022. In the present case, it is beyond doubt that the notice u/s. 148 of the Act dated 31.03.2023 has been issued by the Ld. JAO. Therefore, the notice issued by the Ld. JAO as opposed to the NFAC is not in accordance with law and is therefore invalid.

Accordingly, it is prayed that, the notice issued u/s. 148 of the Act dated 31.03.2023 and consequentially, the proceedings conducted thereunder and order passed consequent thereto be quashed.

7.1. On perusal of the submission filed by the appellant, it is noticed that the appellant has main contention that the AO had not provide the copy of information that the total of cash transact made by the appellant amounting to Rs.2,00,00,000/- during the proceedings u/s 148A(d) of the IT Act.

7.1.1. In respect to the contention, on verification of assessment order passed by the AO, it is noticed that the AO had mentioned in facts of the case that the information

was possession with the department that the appellant had made huge cash deposit and cash withdrawals totaling to Rs.2,00,00,000/- in the bank account maintained with ICICI bank during the year under consideration. In respect to the clarification made about the source of cash deposits, the JAO had issued notice asking to provide the relevant documents to prove the source of cash deposit made. Therefore, the contention of the appellant is not acceptable.

7.2. Further, the appellant has also referred the section 149 and stated that notice u/s 148 cannot be issued after expiry of period of 3 years from the relevant year i.e. for the AY.2016-17 cannot be issued after 31.03.2020 and the JAO had issued the notice after expiry of 3 years from the relevant year. The appellant has stated that if the income escaped has exceeded Rs.50,00,000/- then the AO issued notice u/s 148 after expiry of 3 years. In the present case, the aggregate cash deposit made during the year under consideration is Rs.27,36,600/- and cash withdrawal of Rs.28,04,700/-. However, the aggregate of both cannot be considered as escapement of income. Therefore, the notice issued on the basis that the income has escaped amounting to more than Rs.50,00,000/- is invalid and bad in law.

7.2.1. On the basis of material available on record, it is noticed that the contention of the appellant is not acceptable as the case of the appellant was re-opened on the basis of that during the year under consideration the appellant had made total cash transaction of Rs.2,00,00,000/- or more which is more than the threshold limit for re- opening of the assessment. After considering the response of the appellant in respect to the notices issued, the JAO had passed the order u/s 148A(d) of the IT Act. Subsequently, notice u/s 148 was issued by the JAO.

7.3. In view of the above factual discussions the grounds of appeal raised regarding validity of the re-assessment is not sustainable. Thus, the ground of appeal no.1 is dismissed t

6. Since the assessee had challenged the validity of the notice issued u/s 148 of the Act on the legal ground and had specifically submitted that assessee was not provided with any documents whatsoever to arrive at the conclusion that income had escaped assessment for issuing notice u/s 148A(d) of the Act. It was also specifically mentioned that failure to provided the material relied upon by the AO, violates the basic principles of natural justice and preclud the assessee from filing any effective response to the show cause notice issued u/s 148A(d) of the Act and in this regard reliance was placed upon CBDT instruction **F. No. 299/10/2022-Dir (Inv. III)/611 dated 01/08/2022** wherein it has been mentioned that:

The AO should enclose copy of all the relevant "Information" available on which reliance is being placed, along with supporting documents (if any).

In the cases where information is received from the Investigation Wing or any other law enforcement agency, details of letter, brief summary of information along with relevant portion of such report and details of relied upon documents may be enclosed. Such a portion as does not bear reference to the assessee concerned may be appropriately redacted.

Details of enquiry conducted, if any, may be shared if reliance is being placed by the AO on it.

Judicial order (i.e. case laws) on which reliance is being placed, if any.

7. The said view that assessee should be provided with the material relied upon by the Assessing Officer has been upheld by the **Hon'ble Apex Court in the case of Union of India V/s. Ashish Agarwal [2022] 138 taxmann.com 64 (SC)** in paragraph 10 of the said decision as under:

the Assessment Year has escaped assessment must be provided along with the Notice u/s. 148A(b) of the Act failing which the notice so issued is rendered vulnerable. Since the notice u/s. 148A(b) is the plinth on which the entire edifice of reassessment stands, any breach of procedure and principles at the said stage results in rendering the entire assessment vulnerable and bad in law.

8. It was further submitted that the notice issued by the AO u/s 148 of the Act was in violation to the provisions of Sec. 149 of the Act and had also referred to the said provisions which are reproduced herein below:

"(1) No notice under section 148 shall be issued for the relevant assessment year,

(a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);

(b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of-

(i) an asset;

(ii) expenditure in respect of a transaction or in relation to an event or occasion; or

(iii) an entry or entries in the books of account,

which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more:]"

9. It was also submitted that, a notice u/s. 148 of the Act cannot be issued after the expiry of period of 3 years from the relevant year. Hence, the notice for the year under consideration cannot be issued after 31.03.2020, however, the notice may be issued after the expiry of period of 3 years from the relevant year, if the income escaped had exceeded Rs. 50,00,000/-.

10. As per assessee in the present case the Ld. JAO re-opened the case based on the information that during the year under consideration, the appellant was involved in cash transaction aggregating to Rs.2 Crores. However, it may be noted that the aggregate cash deposit made during the year under consideration was Rs. 27,36,600/- and total cash withdrawal from both bank accounts amounts to Rs. 28,04,700/-. Accordingly, as per assessee no tax had escaped assessment for the transaction amount exceeding Rs.50,00,000/-. Therefore, the issuance of notice under Section 148 of the Act after a period of three years on the ground that income exceeding Rs. 50,00,000/- had escaped assessment was factually

incorrect. In support thereof reliance was also placed on the judgment of Hon'ble Rajasthan High Court in the case of **Bijendra Singh v/s Income Tax Officer** wherein it was held as under: -

"Though the notice was issued on the assumption that the cash deposit was Rs. 59.75 lacs by invoke extended period of limitation available under section 149(1)(b), as a fact, it was found that the same was Rs. 33.62 lacs only and once the said aspect was clear to the Assessing Officer, he lost his jurisdiction to further continue with the proceedings as the limitation under section 149(1)(a) of three years would trigger and he would lose the jurisdiction on account of limitation, as the amount was less than Rs. 50 lacs. [Para 22]

However, the Assessing Officer while passing the order under section 148A(d) in a wholly mechanical manner rejected the plea of the assessee and proceeded to issue notice under section 148. Whereafter proceedings were sought to be converted into notice under section 69A read with section 115BBE, which action also is wholly impermissible. Once the notice under section 148A(b) is found to be barred by limitation, no further proceedings could be initiated under any of the provisions of the Act and the purported exercise of jurisdiction pursuant to notice under section 148A(b) could not be initiated or proceeded with. [Para 23]"

11. Apart from this assessee had also challenged the validity of the notice u/s 148 of the Act and in this regard also submitted that notification No. 18/2022 dated 29.03.2022 issued by the Hon'ble CBDT under the powers conferred under section 151A of the Act. Vide para 3 of the said notification, the Hon'ble CBDT

had mandated issuance of notice in faceless manner u/s. 148 of the Act with effect from the date of the notification. The relevant portion (emphasis supplied) of the said notification is as under:

For the purpose of this Scheme,

(a) assessment, reassessment or recomputation under section 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. In view of above, it may be appreciated that in the present case since the notice u/s. 148 of the Act dated 31.03.2023 i.e. after the date of aforesaid notification is not issued through automated allocation in a faceless manner and therefore, the said notice is invalid and bad in law.

ii. The issue of determination of validity of notice issued by the Jurisdictional Assessing Officer came up before the Hon'ble Jurisdictional Bombay High Court in the case of Hexaware Technologies Limited v/s. ACIT [2024] 162 taxmann.com 225 (Bom HC). The Hon'ble Court in the said case quashed the notice issued u/s. 148 of the Act observing as under:

"...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 29th March, 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.

...The Scheme is categoric as stated aforesaid that the notice under Section 148 of the Act shall be issued through automated allocation and in a faceless manner. The Scheme clearly provides that the notice under Section 148 of the Act is required to be issued by NFAC and not the JAO....

12. In support of its arguments, the assessee relied upon the decision of Hon'ble Telangana High Court in the case of **Kankanala Ravindra Reddy vs. Income Tax Officer** wherein it was held that in view of the provisions of Section 151A of the Act read with the Scheme dated 29th March 2022 the notices issued by the JAOs are invalid and bad in law.

13. After having heard the parties and after going through the entire facts of the present case, we found that Ld. CIT(A) while deciding the appeal of the assessee had not at all dealt with these specific ground / arguments raised by the assessee. Therefore the order passed by the Ld. CIT(A) is not sustainable in the eyes of law, as in our view Ld. CIT(A) had not adjudicated these grounds whereas it was the statutory duty of the Ld. CIT(A) to adjudicate these grounds by passing a speaking order.

14. Be that as it may, in my view, when once the assessee has filed a detailed written submissions before

the concerned authority, then, the said authority is duty-bound under law to consider the said reply and to adjudicate the grounds on merit by passing speaking order, which has not been done in the present case. Therefore, considering the said fact, I am of the view that the matter needs to be restored back to the file of Ld.CIT(A) with a direction to consider the detailed reply filed by the assessee and passed speaking order afresh, needless to mention, after providing opportunity of hearing to both the parties. In terms of above directions, the matter is remanded back to the file of Ld. CIT(A). The assessee shall not seek any adjournment on frivolous grounds and remain cooperative during the course of proceedings.

15. Before parting, we make it clear that our decision to restore the matter back to the file of the Ld.CIT(A) shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by the Ld. CIT(A) independently in accordance with law.

16. In the result, the appeal filed by the assessee is allowed for statistical purposes.

ITA No. 5019/Mum/2025, A.Y 2015-16

17. As the facts and circumstances in this appeal is identical to ITA No 5020/Mum/2025 for the A.Y 2015-16 (except variance in figures) and the decision rendered in above paragraph would apply **mutatis mutandis** for this appeal also. Accordingly, the grounds of appeal of the present appeal also stands allowed for statistical purposes.

18. In the result, both the appeals filed by the assessee stands allowed for statistical purposes.

Order is pronounced in the open court on 30.01.2026.

Sd/-

(SANDEEP GOSAIN)
JUDICIAL MEMBER

KRK, Sr. PS

MUMBAI

Date: 30.01.2026

Copy of the Order forwarded to:

1. The Assessee
2. The Respondent
3. The CIT(A)
4. CIT
5. DR/AR, ITAT, MUMBAI
6. Guard File

By Order

Assistant Registrar
ITAT, MUMBAI