

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM “SMC” BENCH : VISAKHAPATNAM AT
HYDERABAD
[THROUGH HYBRID HEARING]**

**BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT
AND
SHRI OMKARESHWAR CHIDARA, ACCOUNTANT MEMBER**

आ.अपी.सं / **ITA No.646/VIZ./2025**
Assessment Year 2015-2016

Nalluru Constructions, VIJAYAWADA-520 010. Andhra Pradesh. PAN AAIFN5778N (Appellant)	vs.	The Income Tax Officer, Circle-1(1), VIJAYAWADA. State of Andhra Pradesh (Respondent)
निर्धारिती द्वारा / Assessee by:	Sri C Subrahmanyam, CA	
राजस्व द्वारा / Revenue by:	Dr. Aparna Villuri, Sr. AR	
सुनवाई की तारीख / Date of hearing:	27.01.2026	
घोषणा की तारीख / Pronouncement:	30.01.2026	

आदेश / ORDER

PER VIJAY PAL RAO, VICE PRESIDENT:

This appeal by the Assessee is directed against the Order dated 12.08.2025 of the learned CIT(A)-National Faceless Appeal Centre [in short “NFAC], Delhi, for the assessment year 2015-2016.

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

1. *“That on the facts and in the circumstances of the case, the learned Assessing Officer erred in completing the assessment under Section 147 read with Section 144B of the Income-tax Act, 1961, determining the total income at Rs14,59,771, which was erroneously upheld by the learned CIT(A) under Section 250. The impugned orders are contrary to the facts of the case and provisions of law.*
2. *That the learned CIT(A) has grossly erred in upholding the estimation of profit at 8% on the alleged turnover of Rs1.82 crore, without appreciating that the so-called turnover considered by the Assessing Officer included various non-trading and non-revenue items such as fixed deposit receipts (FDR) amounts, capital contributions, cancellation of D.D, reversal of electricity charges, and redeposits of earlier cash withdrawals.*
3. *That the learned CIT(A) failed to appreciate that the assessee had furnished complete details and explanations demonstrating that the figure of Rs1.82 crore did not represent the true turnover of the assessee's business, and that the Assessing Officer had erroneously treated such non-revenue items as business receipts for the purpose of estimation of income.*
4. *That the learned CIT(A), in a casual and summary manner, confirmed the arbitrary action of the Assessing Officer without proper appreciation of the facts and evidence placed on record, and thereby passed an order which is perverse and unsustainable in law.*
5. *That the learned CIT(A) ought to have held that the turnover declared by the assessee at Rs 66.19 lakh was correct and verifiable, and that the estimation of profit at 8% on such turnover was reasonable and justified in the facts and circumstances of the case.*
6. *The appellant craves leave to add, alter, amend, or withdraw any of the above grounds of appeal at the time of hearing.”*

3. The assessee has also raised additional grounds of appeal under Rule 29 of ITAT Rules, 1963 which read as under:

1. *“The notice issued u/s 148 dt. 03-04-2022 is barred by limitation as per section 149(1)(b) read with the proviso thereto, having been issued beyond the prescribed period of six years. Consequently, the reassessment order passed u/s 147 r.w.s. 144B dt. 24-01-2024 is bad in law, void ab initio, and liable to be quashed.*
2. *The reassessment order suffers from jurisdictional infirmities. The notice issued u/s 148A(d) and 148 by the jurisdictional ITO, Circle 1(1), Vijayawada on dt.03.04.2022 are contrary to the provisions of sections 1448, 130, and 151A of the Act and hence are invalid.”*

4. The learned Authorised Representative of the Assessee has pleaded that the issue raised in above additional grounds goes to the root of the matter being foundation of assessment order and for adjudication of the above additional grounds, no fresh material or record or facts are required to be investigated, verified or considered and the same can be adjudicated on the basis of the material and facts already on record. He, therefore, submitted that the additional grounds be admitted and decided on merits. In support of his contention, he relied upon the Judgment of

Hon'ble Supreme Court in the case of **National Thermal Power Co. Ltd., vs., CIT [1998] 229 ITR 383 (SC).**

5. On the other hand, the learned DR has strongly opposed for admission of the additional grounds. She submitted that on identical issue the Department has filed SLP before the Hon'ble Supreme Court in the case of Hexaware Technology Ltd., against the Judgment of Hon'ble Bombay High Court and therefore, pleaded that this may be kept in abeyance till the outcome of the SLP on the same issue pending adjudication before the Hon'ble Supreme Court.

6. We have heard the learned Authorised Representative of the Assessee and the learned DR on the admission of additional grounds. It is an undisputed fact that the issue raised in additional grounds is purely legal in nature and goes to the root of the matter. It is also pertinent to note that for adjudication of the above additional grounds, no fresh material or record or facts are required to be investigated, verified or considered, but, the same can be adjudicated on the basis of the material and facts already on

record. Accordingly, by following the Judgment of Hon'ble Supreme Court in the case of **National Thermal Power Co. Ltd., vs., CIT** (supra), we admit the additional grounds raised by the assessee for adjudication.

7. The learned Authorised Representative of the Assessee at the outset invited the attention of the Bench on the additional ground no.2 raised by the assessee and submitted that the notice issued by the Jurisdictional Assessing Officer [in short "JAO"] u/secs.148(b), 148A(d) and 148 of the Act dated 16.03.2022, 03.04.2022 and 03.04.2022 respectively, are without following the procedure as per National Faceless Assessment Scheme introduced by the Finance Act, 2021 and therefore, the notice issued by the Assessing Officer u/sec.148 of the Act is not valid. He submitted that the notice issued by the JAO, Ward-2(1), Vijayawada u/sec.148 of the Act dated 03.04.2022 and consequent re-assessment order are invalid because the procedure as per the National Faceless Assessment Scheme u/sec.151A of the Act has not been followed and, therefore, the same is required to be set-aside. In support of this


contention, the learned Authorised Representative of the Assessee has relied upon the following decisions:

- i. Smt. Prameela Pasumarthi vs. DCIT [2025] 180 taxmann.com 131 [Andhra Pradesh] [HC]
- ii. Order of ITAT, Visakhapatnam in the case of No.368 Kolakaluru Primary Agricultural Cooperative Credit Society Limited, Tenali vs. ITO, Ward-1, Tenali in ITA.No.456/Viz./2025, dated 05.12.2025.
- iii. Order of Jurisdictional Andhra Pradesh High Court in WP.No.34685/2025 Dated 15.12.2025.

8. On the other hand, the learned DR has relied upon the Orders of the authorities below 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.

9. We have heard the learned Authorised Representative of the Assessee as well as the learned DR and

considered the relevant material on record. At the outset, it is noted that the ITO, Ward-2(1), Vijayawada has issued notice u/sec.148 of the Act dated 03.04.2022 as under :

 GOVERNMENT OF INDIA MINISTRY OF FINANCE INCOME TAX DEPARTMENT OFFICE OF THE INCOME TAX OFFICER WARD 2(1),VIJAYAWADA			
To: NALLURU CONSTRUCTIONS 74-12/9-9 , 8TH ELECTRICITY COLONY CHAKRADHARA RAO ROAD VIJAYAWADA 520010 , Andhra Pradesh India			
PAN: AAIFN5778N	A.Y: 2015-16	Dated: 03/04/2022	DIN & Notice No: ITBA/AST/S/148 1/2022- 23/1042456870(1)
Notice under section 148 of the Income-tax Act,1961			
Sir/Madam/ M/s.			
<ul style="list-style-type: none"> • I have the following information in your case or in the case of the person in respect of which you are assessable under the Income tax Act, 1961(here in after referred to as "the Act") for Assessment Year 2015-16 <ul style="list-style-type: none"> • information flagged by the risk management strategy formulated in this regard suggesting that income chargeable to tax has escaped assessment within the meaning of section 147 of the Act. Order under sub-section (d) of section 148A of the Act has been passed in such case vide DIN ITBA/AST/F/148A/2022-23/1042455522(1) dated 03/04/2022 and annexed herewith for reference, 2. I, therefore, propose to assess or reassess such income or recompute the loss or the depreciation allowance or any other, allowance or deduction for the Assessment Year 2015-16 and I, hereby, require you to furnish, within 30 days from service of this notice, a return in the prescribed form of the Assessment Year 2015-16. 3. This notice is being issued after obtaining the prior approval of the PCCIT, AP & TELANGANA accorded on date 02/04/2022 vide Reference No. 100000029064408. 			
ANIL KUMAR PULIPAKA WARD 2(1),VIJAYAWADA			

10. Thus, it is clear that the notices 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.151A of the Act. An identical issue has been considered by the Hon'ble Jurisdictional High Court of Andhra Pradesh in the case of Smt. Prameela Pasumarthi vs. DCIT [2025] 180 taxmann.com 131 (Andhra Pradesh) in Para Nos.7 and 8 as under:

7. Discussion and findings:

(A). The Division Bench of the Bombay High Court in the case of *Prakash Pandurang Patil (supra)* by following the judgment of a Division Bench of the High Court of Bombay, in the case of *Hexaware Technologies Ltd. v. Assistant Commissioner of Income-tax* [2024] 162 taxmann.com 225 / [2024] 464 ITR 430 (Bombay)/(2024) 464 ITR 430 had considered the effect and interpretation of the Section 151 (A) of the Income Tax as extracted herein under:

"3. It is apparent that the impugned notice dated 5 April, 2022 issued under Section 148 of the Act and the order of the same date under Section 148A(d) of the Act are issued by the Jurisdictional Assessing Officer ("JAO") and not under the mandatory faceless mechanism as per the provisions of Section 151 A of the Act. For a notice to be validly issued under Section 148 of the Act, the respondent No.2 would be required to comply with the provisions of Section 151A of the Act, so as to adhere to the faceless mechanism, as notified by the Central Government by notification dated 29 March 2022. A Division Bench of this Court in the case of *Hexaware Technologies Ltd. v. Assistant Commissioner of Income-tax* [2024] 162 taxmann.com 225 / [2024] 464 ITR 430 (Bombay)/(2024) 464 ITR 430 had considered the effect and interpretation of the said provision. The relevant extract of the said decision reads thus:-

35. Further, in our view, there is no question of concurrent jurisdiction of the JAO and the FAO for issuance of notice under Section 148 of the Act or even for passing assessment or reassessment order. When specific jurisdiction has been assigned to either the JAO or the FAO in the scheme dated 29.03.2022, then it is to the exclusion of the other. To take any other view in the matter, would not only result in chaos but also render the whole faceless proceedings redundant. If the argument of Revenue is to be accepted, then even when notices are issued by the FAO, it would be open to an assessee to make submission before the JAO and vice versa, which is clearly not contemplated in the Act. Therefore, there is no question of concurrent jurisdiction of both FAO or the JAO with respect to the issuance of notice under Section 148 of the Act. The Scheme dated 29th March 2022 in paragraph 3 clearly provides that the issuance of notice "shall be through automated allocation" which means that the same is mandatory and is required to be followed by the Department and does not give any discretion to the Department to choose whether to follow it or not. That automated allocation is defined in paragraph 2 (b) of the Scheme to mean an algorithm for randomised allocation of cases by using suitable technological tools including artificial intelligence and machine learning with a view to optimise the use of resources. Therefore, it means that the case can be allocated randomly to any officer who would then have jurisdiction to issue the notice under Section 148 of the Act, It is not the case of respondent No.1 that respondent No.1 was the random officer who had been allocated jurisdiction.

36. With respect to the argument of the Revenue, *i.e.*, the notification dated 29th March, 2022 provides that the Scheme so framed is applicable only 'to the extent' provided in Section 144 B of the Act and Section 144 B of the Act does not refer to issuance of notice under Section 148 of the Act and hence, the notice cannot be issued by the FAO as per the said Scheme, we express our view as follows:-

Section 151A of the Act itself contemplates formulation of Scheme for both assessment, reassessment or re-computation under Section 147 as well as for issuance of notice under Section 148 of the Act. Therefore, the Scheme framed by the CBDT, which covers both the aforesaid aspect of the provisions of Section 151A of the Act cannot be said to be applicable only for one aspect, *i.e.*, proceedings post the issue of notice under Section 148 of the Act being assessment, reassessment or re-computation under Section 147 of the Act and inapplicable to the

issuance of notice under Section 148 of the Act. The Scheme is clearly applicable for issuance of notice under Section 148 of the Act and accordingly, it is only the FAO which can issue the notice under Section 148 of the Act and not the JAO. The argument advanced by respondent would render clause 3(b) of the Scheme otiose and to be ignored or contravened, as according to respondent, even though the Scheme specifically provides for issuance of notice under Section 148 of the Act in a faceless manner, no notice is required to be issued under Section 148 of the Act in a faceless manner. In such a situation, not only clause 3(b) but also the first two lines below clause 3(b) would be otiose, as it deals with the aspect of issuance of notice under Section 148 of the Act. Respondents, being an authority subordinate to the CBDT, and which has been laid before both House of Parliament is partly otiose and inapplicable."

37. When an authority acts contrary to law, the said act of the Authority is required to be quashed and set aside as invalid and bad in law and the person seeking to quash such an action is not required to establish prejudice from the said Act. An act which is done by an authority contrary to the provisions of the statute, itself causes prejudice to assessee. All assesseees are entitled to be assessed as per law and by following the procedure prescribed by law. Therefore, when the Income Tax Authority proposes to take action against an assessee without following the due process of law, the said action itself results in a prejudice to assessee. Therefore, there is no question of petitioner having to prove further prejudice before arguing the invalidity of the notice.

4. It is hence apparent that in the present case, the impugned order and the notices issued by respondent no.1 are not in compliance with the Scheme notified by the Central Government implementing the provisions of Section 151A of the Act. The Scheme, as tabled before the Parliament as per the requirements of the said provision, is in the nature of a subordinate legislation, which governs the conduct of proceedings under Section 148A as well as Section 148 of the Act. Thus, in view of the explicit declaration of the law in *Hexaware Technologies Limited (supra)*, the grievance of the petitioner- assessee insofar as it relates to an invalid issuance of the impugned order and the notice is required to be accepted.

5. Learned Counsel for the parties agree that in this view of the matter, the proceedings initiated under Section 148 of the Act would not be sustainable and are rendered invalid in view of the judgment rendered in *Hexaware Technologies Limited (supra)*."

(B). Further, it is very apt to refer the judgment of the High Court of Telangana in the case of *Kanakanala Ravindra Reddy v. ITO* [2023] 156 taxmann.com 178 (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 151 A of the Act read with Notification 18/2022 dated 29.03.2022.

(C). It is also to be noted that the same issue had also been decided by various High Courts in India i.e., Gauhati High Court in the case of *Ram Narayan Sah v. Union of India* [2024] 156 taxmann.com 478 (Gauhati), Punjab and Haryana High Court in the case of *Jatinder Singh Banngu v. Union of India* [2024] 165 taxmann.com 115 (Punjab & Haryana) and Telangana High Court in the case of *Sri Venkataramana Reddy Patloola v. Dy. CIT* [2024] 167 taxmann.com 411 (Telangana). Some views have been taken by the Division Bench of Calcutta High Court in the case of *Giridhar Gopal Dalmia v. Union of India* [M.A.T. 1690 of 2023, decided on 25-09-2024]. In these decisions, the various High Courts allowed the Writ Petitions in favour of the assessee in so far as the issue of jurisdiction is concerned.

(D). Admittedly, the Supreme Court has upheld the decision of the Bombay High Court in the case of *Prakash Pandurang Patil (supra)*, wherein, the Bombay High Court has allowed the said Writ Petition by following the judgment of the Division Bench of the Bombay High Court in the case of *Hexaware Technologies Limited (supra)*. In view of the above factual position, we are of the considered view that the issue involved in the present batch of Writ Petitions is no more res integra.

(E). Considering the background in notifying the (E-Assessment Scheme of Income Escaping Assessment Scheme, 2022) notified by the Government of India on 29.03.2022, and in the light of the decisions of various High Courts stated supra and upon careful consideration of the contentions raised by the learned counsel appearing on either side, we hold that the impugned notices and orders which have been issued by the Jurisdictional Assessing Officer, or outside the faceless mechanism as provided under the provisions of Section 144 (b) read with Section 151 A and the "E-Assessment Scheme of Income

Escaping Assessment Scheme, 2022" notified by the Government of India on 29.03.2022 under Section 151 A, is bad and illegal. It is made clear that the Jurisdictional Assessing Officer ("JAO") had no jurisdiction to issue the impugned orders/notices.

(F). In view of the foregoing reasons, all these Writ Petitions are to be allowed in favour of the petitioners, by setting aside the impugned notices/orders.

8. Accordingly, these Writ Petitions are allowed.

(i) Consequently, the impugned notices/orders issued under Sections 148-A(b), 148-A(d) and 148 of the Income Tax Act, 1961, in all these Writ Petitions, are hereby set-aside.

(ii) The consequential orders, if any, shall stand set-aside.

9. There shall be no order as to costs.

11. The Hon'ble Jurisdictional High Court of Andhra Pradesh again considered and decided this issue in the case of **GG Constructons, Visakhapatnam vs. NFAC, Delhi & Another in WP.No.34685/2025 vide Order dated 15.12.2025** as under:

APHC010668102025



IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

[3545]

MONDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE BATTU DEVANAND
THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

WRIT PETITION NO: 34685/2025

Between:

1. G G CONSTRUCTIONS, REP BY BHOGI HEMA SUNDARA RAO, S/O
B CHIRANJEEVULU (LATE) MANAGING PARTNER, 45-49-5,
NIRMAL SAI RESIDENCY, ABID NAGAR, AKKAYYAPALEM,
VISAKHAPATNAM, ANDHRA PRADESH - 522503

...PETITIONER

AND

1. NATIONAL FACELESS ASSESSMENT CENTRE, DELHI, MINISTRY
OF FINANCE, ROOM NO.401, 2ND FLOOR, E-RAMP, JAWAHARLAL
NEHRU STADIUM, DELHI-110003.

2. DEPUTY COMMISSIONER/ASSISTANT COMMISSIONER OF
INCOME TAX, CIRCLE-3(1), VISAKHAPATNAM, DIRECT TAXES
BUILDING, MVP MAIN ROAD, SECTOR 8, MVP COLONY,
VISAKHAPATNAM, ANDHRA PRADESH - 530017

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the notice u/s 148 of the Act dated 27.06.2025 vide DIN No. ITDA/AST/S/148_172025-26/1077897739(1) issued by the JAO (Respondent No.2) instead of Respondent No.1/(FAO) for A.Y. 2019-20 as void, illegal and contrary to the provisions of Income-tax Act and contrary to the Constitutional Provisions including Principles of Natural Justice and pass

THE HON'BLE SRI JUSTICE BATTU DEVANAND

AND

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

WRIT PETITION No.34685 of 2025

ORDER: (Per Hon'ble Sri Justice Battu Devanand)

This writ petition has been filed under Article 226 of the Constitution of India seeking the following relief:

"...to issue a writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the notice u/s 148 of the Act dated 27.06.2025 vide DIN No.ITBA/AST/S/148_1/2025-26/1077897739(1) issued by the JAO (Respondent No.2) instead of Respondent No.1/(FAO) for A.Y. 2019-20 as void, illegal and contrary to the provisions of Income-tax Act and contrary to the Constitutional Provisions including Principles of Natural Justice and pass...."

2) Heard the learned counsel for the petitioner and Sri Anup Koushik Karavadi, learned Standing Counsel appearing for the Income Tax Department.

3) Perused the record.

4) The issue raised in the present Writ Petition is the subject matter in the case of ***Smt. ParameelaPasumarthi Vs. The Deputy Commissioner of Income Tax Circle-II, Vijayawada and another*** wherein this Court allowed W.P.No.14681 of 2023 and batch and held as herein under:

“Considering the background in notifying the (E-Assessment Scheme of Income Escaping Assessment Scheme, 2022) notified by the Government of India on 29.03.2022, and in the light of the decisions of various High Courts stated supra and upon careful consideration of the contentions raised by the learned counsel appearing on either side, we hold that the impugned notices and orders which have been issued by the Jurisdictional Assessing Officer, or outside the faceless mechanism as provided under the provisions of Section 144 (b) read with Section 151 A and the “E-Assessment Scheme of Income Escaping Assessment Scheme, 2022” notified by the Government of India on 29.03.2022 under Section 151 A, is bad and illegal. It is made clear that the Jurisdictional Assessing Officer (“JAO”) had no jurisdiction to issue the impugned orders/notices.”

5) Since the issue is covered by the order of this Court, dated 28.10.2025 in W.P.No.14681 of 2023 and batch, this Writ Petition is allowed in terms of the said order.

6) There shall be no order as to costs.

7) Consequently, miscellaneous applications, pending if any, shall stand closed.

Registry to append a copy of the order in W.P.No.14681 of 2023 and batch, to this order.

JUSTICE BATTU DEVANAND

JUSTICE A. HARI HARANADHA SARMA

Date: 15.12.2025

SCS/SA

12. Thus, it is clear that the Hon'ble Jurisdictional High Court of State of Andhra Pradesh has taken a consistent view on this point and held that the notice issued u/sec.148 of the Act by the JAO without following the National Faceless Assessment Scheme as per Sec.151A of the Act and notified by the CBDT vide Notification dated 29.03.2022 is invalid and liable to be set aside. Accordingly, respectfully following the Judgment of Hon'ble Jurisdictional High Court of Andhra Pradesh in the case of **Smt. Prameela Pasumarthi vs. DCIT (supra)** as well as in the case of **GG Constructions vs. NFAC, Delhi & another (supra)**, we set aside the notice issued by the JAO, Ward-2(1), Vijayawada issued u/sec.148 of the Act dated 03.04.2022 being in contravention of the Faceless Assessment Scheme Notified by the CBDT dated 29.03.2022 and also without following the procedure provided u/sec.151A of the Act. Though the matter is pending before Hon'ble Supreme Court in the SLP filed by the Revenue against the decision of Hon'ble Bombay

High Court in the case of Hexsware Technologies Ltd., (supra), however, we are bound by the Judgment of Hon'ble Jurisdictional High Court of Andhra Pradesh. Since we have quashed the notice issued by the JAO u/sec.148 of the Act and consequent assessment order also got vitiated therefore, the other issues raised by the assessee are not taken up for adjudication as the learned Authorised Representative of the Assessee has restricted his arguments only on the legal issue. We Order accordingly.

13. In the result, appeal of the Assessee is allowed.

Order pronounced in the open Court on 30.01.2026.

Sd/-
[OMKARESHWAR CHIDARA]
ACCOUNTANT MEMBER

Sd/-
[VIJAY PAL RAO]
VICE PRESIDENT

Hyderabad, Dated 30th January 2026.

VBP

Copy to

1.	Nalluru Constructions, 74-12/9-9, 8 th Electricity Colony, Chakradhara Rao Road, VIJAYAWADA – 520 010. Andhra Pradesh.
2.	The Income Tax Officer, Circle-1(1), VIJAYAWADA. State of Andhra Pradesh
3.	The Pr. CIT, Vijayawada.
4.	The DR ITAT “Visakhapatnam” SMC-Bench, Visakhapatnam
5.	Guard File

//By Order//

//True Copy//