

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH : BANGALORE**

**BEFORE SHRI PRASHANT MAHARISHI, VICE – PRESIDENT  
AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

<b>ITA No. 1590 &amp; 1592/Bang/2025</b>
<b>Assessment Year : 2013-14 &amp; 2015-16</b>

Alex Puthenchira Johnson, 202A, Embassy Palace, #1/16, Cunningham Road, Bengaluru – 560 052. <b>PAN: AAQPP1919D</b>	<b>Vs.</b>	The Deputy Commissioner of Income Tax, Circle 1(1), Bengaluru
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri S Parthsarathi, Advocate & Smt. Prathiba R, Advocate
Revenue by	:	Shri Shivanad Kalakeri, CIT-DR

Date of Hearing	:	15-12-2025
Date of Pronouncement	:	12-02-2026

**ORDER**

**PER PRASHANT MAHARISHI, VICE – PRESIDENT**

1. ITA No. 1590 and 1592/Bangalore/2025 for assessment year 2013 – 14 and 2015 – 16 is directed against the order passed by the National faceless appeal Centre (NFAC), Delhi [The Learned CIT – A ] dated 3 June 2025 and 23 May 2025 respectively by Alex Puthenchira Jhonson (the assessee/appellant) wherein the appeal filed by the assessee against the reassessment order passed under section 147 read with section 144 read with section 144B of The Income Tax Act, 1961 (The Act) dated 28 March 2022 and 22nd may 2023 respectively passed by the Assessment Unit, Income Tax Department (The Learned AO), by which the learned CIT – A set

aside the assessment orders directing him to pass a fresh assessment order.

2. The only grievance in both these appeals is that the learned CIT-A does not have any power to set-aside the assessment under section 251 of the income tax act and to restore the case h back to the file of the assessing officer to make de novo fresh assessment when the assessment order is not passed u/s 144 of the Act.
3. We first state the facts for assessment year 2013-14, which is claimed by both the parties as similar for assessment year 2015-16.
4. The assessee is an individual who filed his return of income on 28th of March 2022 by declaring a total income of ₹ 4,480,732/- including dividend income of ₹ 135,826/-. The assessee is director of one of the company and holding more than 19.5% shareholding in that company.
5. The learned AO noted that From financial year 2011 - 12 to financial year 2014 - 15, that company transferred ₹ 109 crore in total to one Mr VP Yaqub towards acquisition of 651 acres of land for expansion of production unit. Mr VP Yaqub is the maternal uncle of the assessee and holds only 41 acres of land in his name. Soon after the amounts were received by him, the same were transferred to the account of the appellant and the account of the appellant's mother. It was seen by the assessing officer that the amounts have been transferred from mother's account of Corporation Bank to the assessee's account. Further the company had not pursued the payment of extra money paid to Mr Yaqub and the amount paid by the company and ultimately found its way into the hands of the assessee. Thus the amount of ₹ 167,050,000 paid to the appellant under the guise of land purchase advance, to the extent of

accumulated profits in the hands of the company, clearly constitutes deemed dividend in his hands under the provisions of section 2 (22) (e) of the income tax act.

6. Accordingly notice under section 148 was issued to the assessee who filed return on 30 April 2021 in response. The AO noted that assessee has received ₹ 233,350,000 during the year under consideration routed through his family members hence this amount is treated as deemed income in the hands of the assessee.
7. Accordingly the assessment order was passed on 28th of March 2022 u/s 143 (3) rws 147 rws 144B of the Income tax Act at the total income of ₹ 237,575,730/- by making the above addition of ₹ 233,350,000/- under section 2 (22) (e) of the act as deemed dividend.
8. The assessee preferred an appeal before the learned CIT – A who passed an appellate order holding that for assessment year 2014 – 15 and 2015 – 16, the learned CIT – A on identical issue has set aside the assessment order to the file of the assessing officer for de nova adjudication and therefore he also remanded this appeal to the assessing officer for de novo adjudication in accordance with statutory provisions of the income tax act. Thus he set-aside the appeal filed by the assessee.
9. For assessment year 2015 – 16, on the similar facts the assessment order was passed on 22nd may 2023 wherein the total income of the assessee was assessed u/s 143 (3) r.w.s. 147 r.w.s. 144B of the Income tax Act at ₹ 105,849,330/- wherein an addition of ₹ 89,610,000/- was made under section 2 (22) (e) as deemed dividend. The learned CIT – A has set aside the assessment order to the file of the assessing officer for de nova adjudication following the order for assessment year 2014 – 15 wherein the learned CIT –

A has restored the issue back to the file of the learned assessing officer. Accordingly the appeal of the assessee was set aside.

10. Therefore the issue in both these appeals is that the learned CIT – A has set aside the issue back to the file of the learned assessing officer for passing a de nova assessment order.
11. Shri S. Parthasarathi, advocate and Shrimati Pratibha R, advocate were heard. They filed a paper book containing 57 pages but there main thrust of the argument was that the learned CIT – A does not have any power to set-aside the issue back to the file of the learned assessing officer for passing a de nova assessment order unless the assessment order is passed u/s 144 of the Act. The learned advocate specifically referred to the provisions of section 251 of the income tax act and submitted that such powers are available by introduction of the proviso to section 251 (1) (a) of the act by virtue of the Finance [ No. 2] act 2024 with effect from 1/10/2024 only when the assessment order has been passed under section 144 of the income tax act. He referred to the assessment order passed by the learned assessing officer in the impugned assessment year wherein the assessment order was passed under section 147 read with section 144B of the income tax act 1961. Therefore he submitted that assessee is assessed under section 143 (3) read with section 147 of the income tax act, 1961 for the impugned assessment year and therefore the order of the learned CIT – A in restoring the matter back to the file of the learned assessing officer to pass a fresh assessment order cannot be sustained.
12. The learned departmental representative vehemently supported the order of the learned CIT appeal.
13. We have carefully considered the rival contention and perused the assessment order passed by the learned assessing officer for the

assessment year 2013 – 14 wherein the assessment order is passed under section 143 (3) read with section 147 read with section 144B of the income tax act 1961. Such assessment order is not passed by the assessing officer under section 144 of the income tax act. We have also perused the provisions of section 251 of the income tax act wherein the powers of the Commissioner of income tax appeals are prescribed. According to that the Commissioner of income tax has been given the power where the assessment orders are passed under section 144 of the income tax act to set aside the assessment and referred the case back to the assessing officer for making a fresh assessment. Therefore such powers can be exercised only where the assessment order is passed under section 144 of the income tax act. Here the assessment order is passed under section 143 (3) read with section 147 read with section 144B of the income tax act 1961. In view of these facts, as the assessing officer has not passed any order under section 144 of the act, the learned CIT (A) does not have the power to restore the matter back to the file of the assessing officer for making a fresh assessment. The learned CIT – A is duty-bound to pass an order on the merits of the case as per grounds of appeal raised before him.

14. In view of the above facts we restore this appeal back to the file of the learned CIT – A with a direction to decide the appeal on its merits as per grounds of appeal raised by the assessee.
15. Accordingly ground No. 1 raised by the assessee for assessment year 2013 – 14 is allowed. All other grounds of appeal raised by the assessee becomes infructuous in view of our decision in ground No. 1, hence dismissed.
16. Accordingly appeal for the assessment year 2013 – 14 is partly allowed as indicated above.

17. Facts for assessment year 2015 – 16 also clearly shows that the impugned assessment order was also passed by the learned assessing officer on 22nd may 2023 under section 147 read with section 144B of the income tax act, 1961 and not under section 144 of the income tax act. Therefore the reasons given by us while disposing of the appeal of the assessee for assessment year 2013 – 14, wherein we have held that the learned CIT – A is not correct in restoring the matter back to the file of the assessing officer for making a fresh assessment order, similarly we also direct that for this year also the learned CIT – A should not have restored the matter back to the file of the assessing officer for making a fresh assessment. Instead of that he should have decided the appeal of the assessee for the assessment year 2015 – 16 on its merits as per grounds of appeal raised by the assessee.
18. Accordingly ground No. 1 of the appeal of the assessee is allowed and all other grounds of appeal becomes infructuous and hence dismissed.
19. Accordingly appeal of the assessee for assessment year 2015 – 16 is also allowed.
20. In the result both the appeals filed by the assessee are allowed.

Order pronounced in the open court on 12<sup>th</sup> February, 2026.

Sd/-  
(KESHAV DUBEY)  
JUDICIAL MEMBER

Sd/-  
(PRASHANT MAHARISHI)  
VICE-PRESIDENT

Bangalore,  
Dated, the 12<sup>th</sup> February, 2026.

\*TNTS\*

Copy to:

1. Appellant
2. Respondent
3. CIT
4. DR, ITAT, Bangalore
5. CIT(A)

By order

Assistant Registrar,  
ITAT, Bangalore