



**IN THE INCOME TAX APPELLATE TRIBUNAL,
RAJKOT BENCH, RAJKOT**

**BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
AND
DR. DINESH MOHAN SINHA, JUDICIAL MEMBER**

आयकरअपीलसं./ITA No. 611 & 612/RJT/2025

Assessment Year: (2016-17 to 2017-18)

Shri Gandhi Maulana Azad Shramjivi Ashra Gorevali Bhuj, Kutch – 370510	Vs.	The ITO (Exemption), wd – 1, Rajkot - 360001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAATG8071B		
(Appellant)		(Respondent)

Appellant by : Shri Kalpesh Doshi, Ld. AR
Respondent by : Shri Abhimanyu Singh Yadav, Ld. Sr. DR
Date of Hearing : 11/12/2025
Date of Pronouncement : 10/03/2026

आदेश / ORDER

Per, Dr. Dinesh Mohan Sinha, JM:

Captioned two appeals filed by the same assessee, pertaining to Assessment Year (AY) 2016-17 to 2017-18, are directed against the separate orders passed by the Learned Commissioner of Income Tax(Appeals), National Faceless Appeal Centre, Delhi [in short “the Ld. CIT(A)/NFAC”], dated 14.07.2025, which in turn arise out of a separate assessment orders passed by Assessing Officer (in short “the AO”) u/s. 147 r.w.s. 144 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”), vide order dated 18.03.2025.

2. Since, the issues involved in these two appeals are common and identical; therefore, these appeals have been heard together and a consolidated order are



being passed for the sake of convenience, we shall take the lead case in ITA No.612/Rjt/2025 for Assessment Year 2016-17 filed by the assessee for deciding these two appeals en-masse.

3. Grounds of appeal raised by the assessee, are as follows:

“1. That, the Ld. CIT(A) has wrongly restored back the matter to the file of Ld. AO.

2. That, the Ld. AO has wrongly re-opened the assessment u/s 148 of the Income Tax Act, 1961 (referred to as "Act" hereinafter).

a) Reopening is based on incorrect facts

b) The notice u/s 148 of the Act has been wrongly issued by JAO as against FAO. The notice u/s 148 of the Act is in violation of Section 151A of the Act.

c) The approval accorded by the designated authority is mechanical and without independent application of mind

d) The approval u/s 151 of the Act is issued without complying with the provisions of section 282A(1) of the Act.

e) The assessment is wrongly re-opened on the basis of time limit mentioned in Section 149(1)(b) of I.T. Act, 1961.

3. That, the Ld. AO has wrongly passed the assessment order u/s 147 r.w.s. 144B r.w.s. 144 of the Act.

4. That, the Ld. CIT(A) has wrongly set-aside the denial of exemption u/s 11 and 12 of the Act.

5. That, the Ld. CIT(A) has wrongly set-aside the denial of exemption u/s 10(23C) (iiiad) of the Act.

6. That, the Ld. CIT(A) has wrongly set-aside the disallowance of expenses of Rs. 13,98,431/- at the rate of 15% of the total expenses.

a) The Ld. AO has wrongly disallowed the expenses even though no addition of income forming belief while reopening has been made

b) Disallowance of expenses has been made without following the provisions of Section 145(3) of the Act.

7. That, the Ld. AO has wrongly initiated penalty proceedings u/s 270A, 271A, 271B and 271F of the Act.

8. That, the Ld. AO has wrongly charged interest u/s 234A and 234B of the Act.

9. That, the findings of the Ld. AO are not justified and are bad-in-law.

The appellant craves to add, amend, alter or delete any of the above grounds of appeal”



4. Brief facts of the case are that an information was available with the Assessing Officer that the appellant is involved in large scale cash and credit transactions of Rs.71,25,300/- in the bank account with State Bank of India during the year under consideration. In spite of this huge transaction, the appellant did not file his return of income. The case was re- opened under clause (d) of section 148A of the I.T. Act. The Assessing Officer issued notice u/s.148 of the I.T. Act on 07.04.2023/20.03.2024, in response to this notice, the appellant filed the return of income on 09.05.2024 declaring Nil income. The assessee was asked to provide a justification regarding the re-opening of the case through a notice u/s 142(1). However, in response the assessee repeatedly stated that its case was selected for scrutiny for AY 2018-19 for the same reason and the assessment order for that year was passed in favour of the trust. The AO in his assessment order stated that the doctrine of res-judicata does not strictly apply to income tax proceedings as each AY is treated as independent and acceptance of an assessment in a prior year does not create a binding precedent for subsequent years. During the course of assessment proceedings, the appellant stated that they are not liable to file return as it was eligible for exemption u/s.10(23)(iiiia) and (iiiib) of the I.T. Act. However, the appellant did not claim exemption either u/s.139(4A) r.w.s. 139(1) or in the return filed in response to the notice u/s.148 of the I.T. Act. The Assessing Officer stated that the appellant initially did not claim exemption u/s.10(23C)(iiiab)(iiiad) of the Act in the ITR u/s.139(1) as well as return filed in response to notice u/s. 148 of the Act. Further, the appellant has claimed that the trust is exempt from filing of Income tax return under section 10(23C) (iiiab) and 10(23C)(iiiad) of the Act. The appellant has, however, claimed exemption u/s.11 of the Act where the appellant filed return of income in response to notice u/s. 148 of the Act. Therefore, the claim of the appellant that it was not liable to file return is incorrect. The Assessing Officer stated that during the assessment proceedings, the appellant was asked to furnish documentary



evidence of expenses incurred in relation to the Grants/Subscription/donations of Rs.93,22,874/- received during the year under consideration. The Assessing Officer was not satisfactory for the given reply as the appellant has failed to prove to provide any documentary evidence to substantiate that the expenditure incurred were wholly and exclusively for the purposes of Grants/Subscription/donations received. Therefore, the Assessing Officer disallowed 15% of Rs.93,22,874/- which comes to Rs.13,98,431/- and added this amount to the total income of the appellant as AOP by order dated 24.03.2025.

5. That the assessee filed the appeals against the assessment order before the Ld.CIT(A). That the Ld.CIT(A) has dismissed the appeals of the assessee with following observation:

“6. The appeal filed by the appellant is thus set aside to the file of the Assessing Officer for fresh assessment.”

6. That the assessee filed an appeal against the impugned order of the Ld.CIT(A), before this Tribunal.

7. During the course of hearing, the Ld.AR of the assessee argued that there is 10 grounds of appeal as per the Form-36 out of 4 grounds of appeal on reopening of assessment order u/s. 147 of the Income Tax Act. The Ld. AR further submitted written submission before this Tribunal.

Ground No. 2:

(a) Reopening is based on incorrect facts

1. The Ld. AO has issued a notice u/s 148A(b) of the Act on 22/03/2023. The screenshot of the operative part of the annexure to the said notice has been pasted hereunder for your reference:

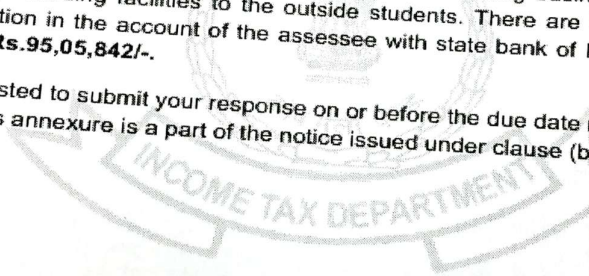


ANNEXURE

Information in the case of Shri Gandhi Maulana Azad Sharamjivi Ashram (PAN-AAATG8071B) has been flagged under "High Risk CRIU-VRU Transaction" for the FY 2015-16 relevant to the AY 2016-17 in accordance with the risk management strategy formulated by the Board from time to time.

As per the information available on records, it is observed there is FCRA violation and misuse of tax exemption provision such as section 80G and 12A of the Income-tax Act, by you. The assessee is a trust running in Banni Area and doing business of running schools and providing boarding facilities to the outside students. There are large scale transaction credit transaction in the account of the assessee with state bank of India (10272864603) to the extent of **Rs.95,05,842/-**.

You are requested to submit your response on or before the due date mention in para-3 of the notice. This annexure is a part of the notice issued under clause (b) of section 148A of the Act.



MANISH GUPTA
ITO WARD - 5, G'DHAM (MUNDRA)

(In case the document is digitally signed please refer Digital Signature at the bottom of the page)

2. On perusal of the aforesaid screenshot, it is submitted that, the notice u/s 148A(b) has stated incorrect facts and the said contentions have been rebutted as under:

Sr. No.	Remarks	Rebuttal
1.	As per the information available on the records, it is observed there is FCRA violation and misuse of tax exemption provision such as section 80G and 12A of the Income-tax Act, by you.	It is respectfully submitted that, appellant is a trust registered u/s 12A of the Act, however, the appellant trust is not registered under the Foreign Contribution Regulation Act or under the 80G Act and the appellant trust has not received any foreign remittance. Hence, the appellant is not required to get itself registered under the Foreign Contribution and Regulation Act. Therefore, the reopening is made on
2.	There are large scale transaction credit transaction in the account of the assessee with state bank of India (10272864603) to the extent of Rs.95,05,842/-.	It is respectfully submitted that, no credit transactions to the tune of Rs. 95,05,842/- have been carried out by the appellant from the said bank account. There are credit transactions to the tune of Rs. 59,55,329/-. Therefore, the reopening even on the stated fact, is incorrect. further, the reasons stated by the Ld. AO, merely reflects his intention to verify the transactions and there is no quantification of income escapement, the reasons stated will nowhere lead a person with



	<i>ordinary prudence that, the income chargeable to tax has escaped assessment. A copy of bank statement is duly enclosed at page no. 60-64.</i>
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3. Apart from this, the Ld. AO has also stated contended incorrect facts in the order u/s 148A(d) of the Act. The screenshot of the operative part of the order u/s 148A(d) of the Act is pasted hereunder for your reference:

- **As per audited balance sheet submitted by the assessee the gross receipt are only Rs 32,500/- and expenditure of Rs 39,600/- where as there is huge transactions in bank account which remain undisclosed and unexplained.**
- **Assessee has submitted that for the same reason , the case was reopened u/s 148 for AY 2018-19 and assessment order was passed in favor of trust. In this regard it is stated that the assessee has not filed any Return of Income for the year under consideration i.e AY 2016-17 thus the income chargeable to tax has escaped assessment and the transaction reflected in bank account remains undisclosed.**

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श्री गान्धी मलाना अजस श्रमजीवी अशरा
AY 2016-17
11/14/2025 2:41:13 PM

Thus in summary, assessee has failed to prove any of its contentions. Though assessee is running 6 branches as per its submission under its umbrella but income and expenditure account shows negligible income and expenses. Assessee has failed show how it is managing these institutes. Assessee has failed to furnish any evidence of receipt of government grant and its utilization. Assessee has not submitted any proof/certificate/registers etcto show as to how many teachers and students are there. How these institutes are being run ? Hence Nature and object of activity , Modus operandi of the assessee is not established.

4. On perusal of the aforesaid screenshot, the Ld. AO has contended that,, the appellant has a gross receipt of Rs. 32,500/- and expenditure of Rs. 39,600/- and that it is not possible to have such a meagre quantum of transactions by keeping in mind the number of branches the appellant is running.

5. The appellant is managing various schools under the Trust head as under, and also details regarding the gross receipts by the respective school:



Sr. No.	School Name	Gross Receipt (in Rs.)
1.	Trust H.O.	36,364/-
2.	Uttar Buniyadi High School	17,83,536/-
3.	Baxipanch Ashamsala	41,43,160/-
4.	Bani Kumar Chatralay	5,45,300/-
5.	Kutchi Sarhadi Sarvoday Yogna	9,60,972/-
	Total	74,69,332/-

6. It can be seen from the above table that the appellant has received various income from the running of school under different category. It is also further stated that the gross receipts are mainly from the government grant which can be verified from the audited Income and Expenditure account.

7. However, the Ld. AO has failed to examine the basic fact that, the said receipt and expenditure are pertaining only to the administration office of the appellant trust and that the said figures represent the standalone incomes and expenditures of the appellant.

8. The appellant has duly submitted the financials of all its branches in response to the notice u/s 148A(b) of the Act. The copy of acknowledgement of filing the reply to notice u/s 148A(b) of the Act is duly enclosed at page no. However, the Ld. AO has failed to consider the documents and has proceeded to reopen the assessment without proper inquiries and without perusing the documents available on record. The copy of financial statements of the trust is duly enclosed at page no. 70,74-80 50-57

9. After perusal of the aforesaid facts and the contentions of the Ld. AO vide the notice u/s 148A(b) of the Act and vide the order u/s 148A(d) of the Act, it is clearly discernible that, the Ld. AO has failed to apply his mind properly and has reopened the assessment on the basis of patently incorrect factual matrix.

10. Therefore, it is clearly substantiated that, the assessment reopened is bad-in-law and the assessment order passed on the basis of such an illegitimate reopening is required to be quashed.

1. Reliance is placed on the following judgements:

Mahatma Gobarji Seva Sansthan ILOL vs. ITO [2025] 172 taxmann.com 89 (Gujarat)

Section 148A, read with section 147, of the Income-tax Act, 1961 - Income escaping assessment Conducting inquiry, providing opportunity before issue of notice under section 148 (General) - Assessment year 2019-20 - Assessee-trust did not file return of income as there was no taxable income - Assessing Officer



issued reopening notices firstly under section 148A(a) and 148A(b) against assessee on basis of information that assessee had deposited certain amount in its bank account - Assessee explained that it was running a resident school/ashram shala and had received maintenance grant from State Government and deposited same in bank account and same was withdrawn and utilized towards expenses of ashram shala - Assessee further explained that there was no cash deposit made by assessee and transaction of amount was counted five times making it wrong reporting by bank - However, Assessing Officer did not consider such reply filed by assessee and passed order under section 148A(d) along with notice under section 148 - It was clear that from reasons recorded in notices issued under section 148A(a) and section 148A(b) that there was no cash deposit made by assessee in any of bank accounts and there was no information of any escaped income with Assessing Officer so as to initiate reopening proceedings - Moreover, explanation given by assessee in reply to notice under section 148A(a) and documents annexed therewith, prima facie, showed that there was no income earned by assessee but there was excess of expenditure over income for year under consideration - Whether therefore, Assessing Officer could not have assumed jurisdiction to reopen assessment - Held, yes [Paras 13 and 14] [In favour of assessee]

- Sri Adiparashakti Boards, Khammam vs. ITO I.T.A.No.1131/Hyd/2024 (ITAT Hyderabad)
- Narendrakumar Mansukhbhai Patel vs. ITO 92 taxmann.com 259 (Guj. HC)
- Mumtaz Haji Mohmad Memon vs. ITO R/SCA No. 21030 of 2017 (Guj. HC)
- Sagar Enterprises vs. ACIT 257 ITR 335 (Guj.)
- Mitul Gems v. ACIT (62 taxmann.com 66) (Guj.)
- BIC Cello (India) (P.) Ltd vs ACIT 160 taxmann.com 474 (Bombay)
- Amar Jewellers Ltd. v. DCIT [2018] 92 taxmann.com 4 (Guj.)
- Sunbarg Tradelink (P.) Ltd. v. ITO [2016] 74 taxmann.com 16 (Guj.)
- Mahadev Trading Co. v. ITO [2012] 18 taxmann.com 353 (Ahd.)

b) The notices u/s 148A(b) and 148 of the Act and the order u/s 148A(d) of the Act are in violation of Section 151A of the Act.

1. The notice u/s 148A(b) of the Act proposing the reopening of assessment dated 22/03/2023 has been issued by ITO Ward 5, Gandhidham (Mundra) (referred to as the "Other ITO" hereinafter for short). The copy of notice u/s 148A(b) of the Act is enclosed at page no. 59



2. The order u/s 148A(d) of the Act and the notice u/s 148 of the Act dated 07/04/2023 has been issued/passed by ITO Exemption Ward - 1, Rajkot (referred to as "JAO" hereinafter for short). The order u/s 148A(d) of the Act is enclosed at page no. 65-69 and the notice u/s 148 of the Act is enclosed at page no. 81

3. Thereafter vide intimation dated 26/07/2023 the case has been transferred to Faceless AO. Vide notice u/s 142(1) of the Act, various details are called for by the Faceless AO and subsequently the assessment order is also framed by the Faceless AO.

4. It is stated that section 151A of the Act has contemplated formulation of Scheme for both assessment, reassessment and re-computation under section 147 as well as for issuance of notice under section 148 and 148A of the Act and also for passing the order u/s 148A(d) of the Act.

5. 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 till the issuance of notice under Section 148 of the Act.

6. 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.

7. In this regards, it is stated that in the newly introduced faceless assessment scheme w.e.f. 1-4-2021, all the assessment proceedings are required to be carried out in a faceless manner u/s 151A and a due process u/s 144B of the Act is required to be followed which duly eliminates direct interaction between the taxpayer and the tax authorities. Whereas the assessment in the present case is conducted by violating the provisions of section 151A of the Act. Therefore, notice u/s 148 of the Act is required to be quashed.

8. In this regards, reliance is placed on:

Hexaware Technologies Limited v. ACIT (WP NO.1778 OF 2023) (Bom. HC)

The court held that the authority to issue reassessment notices under the faceless assessment scheme rests solely with the FAO, not the JAO. the court's decision was based on the newly introduced faceless assessment scheme, established under Section 151A of the Act. This scheme mandates that reassessment notices be issued through automated allocation and in a faceless manner, thereby eliminating direct interaction between the taxpayer and the tax authorities. The court interpreted this to mean that the authority to issue



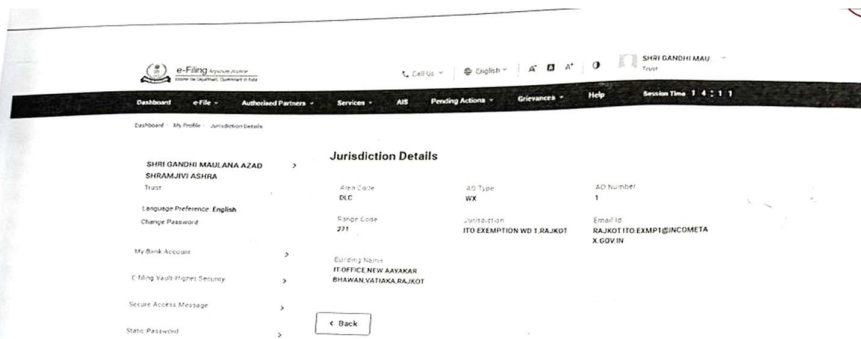
reassessment notices under the faceless assessment scheme rests solely with the FAO, not the JAO. The court emphasized that allowing concurrent jurisdiction would lead to chaos and undermine the purpose of the faceless assessment scheme. It clarified that the scheme's automated allocation process randomly assigns cases to assessing officers, and in this case, the JAO was not the designated officer.

- TVS Credit Services Ltd. v. DCIT [2025] 174 taxmann.com 1078 (Madras)
- Sharda Devi Chhajer W/o Shri Jatan Lal Chhajer Versus The Income Tax Officer, Ward 1(1), Income Tax Office (Rajasthan HC)
- Venus Jewel v. Assistant Commissioner of Income-tax[2024] 164 taxmann.com 414 (Bombay)
- Syed Bathrudeen Mohideen Awliya v. ITO [2025] 176 taxmann.com 862 (Chennai - Trib.)
- Caishen Enterprise LLP v. ACIT [2025] 176 taxmann.com 471 (Bombay)

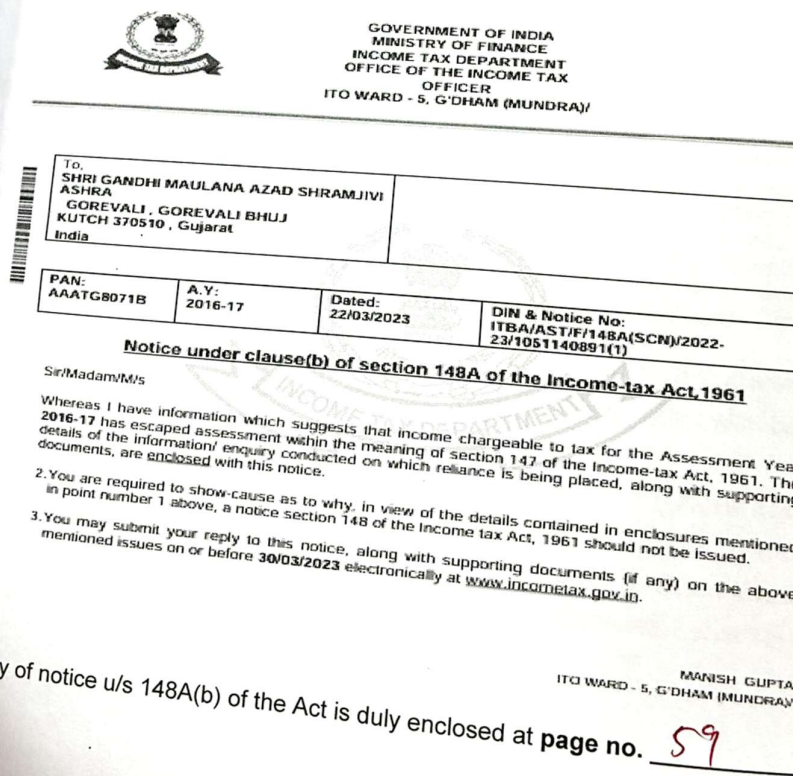
c) The notice u/s. 148(A) has been issued by a Non-Jurisdictional AO.

1. The appellant is a registered trust u/s 12A of the Act and has been carrying out charitable activities since past many years. It is submitted that, the jurisdiction of the appellant lies with ITO Exemption Ward - 1, Rajkot. In order to substantiate our claim, the screenshot of the user account of the Income Tax Portal of the appellant is pasted hereunder for your reference:

2. However, the notice u/s 148A(b) of the Act has been issued by the Ld. Other ITO, even though he does not exercise jurisdiction over the appellant. The screenshot of the operative part of the notice u/s 148A(b) of the Act is duly pasted hereunder for your reference



2. However, the notice u/s 148A(b) of the Act has been issued by the Ld. Other ITO, even though he does not exercise jurisdiction over the appellant. The screenshot of the operative part of the notice u/s 148A(b) of the Act is duly pasted hereunder for your reference:



3. It is respectfully submitted that, the notice u/s 148A(b) of the Act has been issued by the Other ITO by vitiating the provisions of Section 148A(b) of the Act. In order to explain the issue a notice u/s 148A(b) of the Act has been pasted hereunder:

[Conducting inquiry, providing opportunity before issue of notice under section 148. 148A. The Assessing Officer shall, before issuing any notice under section 148.-



(a) conduct any enquiry, if required, with the prior approval of specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment;

*(b) provide an opportunity of being heard to the assessee, [14***] by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than seven days and but not exceeding thirty days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per clause (a);*

4. On perusal of Section 148A(b) of the Act, it is submitted that, the notice u/s 148A(b) of the Act has been issued in violation of the said section. On perusal of the aforesaid provision u/s 148A(b) of the Act, it is clearly discernible that, the notice u/s 148A(b) of the Act is required to be issued by an "Assessing Officer". The term "Assessing Officer" as provided u/s 2(7A) of the Act is pasted hereunder for your reference: Definitions.

2. In this Act, unless the context otherwise requires,-

(7A) "Assessing Officer" means the Assistant Commissioner or Deputy Commissioner or Assistant Director or Deputy Director or the Income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (1) or sub-section (2) of section 120 or any other provision of this Act, and the Additional Commissioner or Additional Director or Joint Commissioner or Joint Director who is directed under clause (b) of sub-section (4) of that section to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this Act;

5. On perusal of the definition of "Assessing Officer" u/s 2(7A) of the Act, it is respectfully submitted that, the term "Assessing Officer" means the officer vested with the relevant jurisdiction over the assessee.

6. It is submitted that, the appellant is a registered trust u/s 12A of the Act, and it is a settled law that, the jurisdiction of a "trust" lies only with the "Exemption Charge" of Income Tax Department and the notice u/s 148A(b) of the Act by the Ld. Other ITO is invalid and no reassessment proceedings can sustain on the basis of a foundational notice being issued by a Non-Jurisdictional AO.

7. Reliance is placed on:

Nimir Kishore Mehta v. Assistant Commissioner of Income-tax/20241 161 axmann.com 553 (Bombay)

For 15



The further point is Respondent No. 1 has also in effect admitted that he has no jurisdiction over Assessee, but he issued the notice because the information and PAN of Assessee were transferred to the charge of Respondent No. 1 at the fag end of March 2023 for issuing notice under Section 148A(b) of the Act and it was getting time barred by limitation on 31st March 2023. He also admits that it has come to his knowledge that Assessee is an NRI when the reply to notice under Section 148A(b) of the Act was made. Notwithstanding that Respondent No. 1 did not migrate the PAN also of Assessee to the concerned AO because according to him, the time was short and notice stage only prima-facie reasons are adequate and it is not necessary to give a conclusive finding about the issue involved.

For 16

We are not satisfied with the explanation offered of shortage of time and that still cannot give jurisdiction to the AO, who did not have jurisdiction.

- General Electoral Trust v. ITO [2017] (81 taxmann.com 276) (Bombay)
- ACIT vs. Reshma Petrotech Ltd. (Ahd.Trib.) (21 taxmann.com 161)
- DCIT Circle (International Taxation) Vs. Shri Manjeet Singh ITA No. 512 /CHD /2022 AND C.O. No. 13/Chd/2022 (Chandigarh Trib.)
- Shri Manjit Singh Vs. DCIT, International Taxation ITA No. 867/CHD/2018 (Chandigarh Trib.)
- Jawahar Lal Agarwal v. ITO [2018] (91 taxmann.com 185) (Agra - Trib.)
- Income-tax officer 5(4) Kanpur v. Mahendra Singh Tyagi* [2017] 83 taxmann.com 71 (Lucknow - Trib.)
- Smt. Parveen Arora (ITA No.1700/Del/2013) (Delhi Tribunal)

d) The order u/s 148A(d) has been passed without passing an order u/s 127 of the Act.

1. The notice u/s 148A(b) of the Act has been issued by the Ld. Other ITO on 22/03/2023. The screenshot of the relevant extract of the notice u/s 148A(b) of the Act has been pasted hereunder for your reference:



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE INCOME TAX
OFFICER
ITO WARD - 5, G'DHAM (MUNDRA)

To: SHRI GANDHI MAULANA AZAD SHRAMJIVI ASHRA GOREVALI, GOREVALI BHUJ KUTCH 370510, Gujarat India

PAN: AAATG8071B	A.Y.: 2016-17	Dated: 22/03/2023	DIN & Notice No: ITBA/AST/F/148A(SCN)/2022- 23/1051140891(1)
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Notice under clause(b) of section 148A of the Income-tax Act, 1961

Sir/Madam/M/s

Whereas I have information which suggests that income chargeable to tax for the Assessment Year 2016-17 has escaped assessment within the meaning of section 147 of the Income-tax Act, 1961. The details of the information/enquiry conducted on which reliance is being placed, along with supporting documents, are enclosed with this notice.

2. You are required to show-cause as to why, in view of the details contained in enclosures mentioned in point number 1 above, a notice section 148 of the Income tax Act, 1961 should not be issued.
3. You may submit your reply to this notice, along with supporting documents (if any) on the above mentioned issues on or before **30/03/2023** electronically at www.incometax.gov.in.

2. However, the order u/s 148A(d) of the Act has been passed by the Jurisdictional Assessing Officer. It is submitted that, even though the case has been transferred from one officer to other officer that too, by the officer situated in one locality to another locality, an opportunity of being heard is not afforded to the appellant and also no order u/s 127 of the Act has been passed by the designated authority. In order to substantiate our claim, Section 127 of the Act has been pasted hereunder for your reference:

Power to transfer cases.

127. (2) Where the Assessing Officer or Assessing Officers from whom the case is to be transferred and the Assessing Officer or Assessing Officers to whom the case is to be transferred are not subordinate to the same Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner,-

(a) where the Principal Directors General or Directors General or Principal Chief Commissioners or Chief Commissioners or Principal Commissioners or Commissioners to whom such Assessing Officers are subordinate are in agreement, then the Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner from whose jurisdiction the case is to be transferred may, after giving the assessee a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, pass the order;



3. A plain reading of Section 127 of the Act clearly states that, when the case is being transferred from the assessing officer of one designated authority to that of another designated authority, the authority from whose assessing officer the case is proposed to be transferred is required to:

- a) Record its reasons in writing for transferring the case;
- b) After giving the assessee a reasonable opportunity of being heard and
- c) After passing an order to this effect shall transfer the case

4. In the present case, the case has been transferred from the Other CIT to CIT(E), Rajkot without recording the reasons in writing for transferring the case, without affording appellant with an opportunity of being heard and without passing an order to this effect. Therefore, the transfer of case without passing an order u/s 127 of the Act is against the provisions of this Act and the subsequent assessment order framed by the Ld. AO is also illegal and bad-in-law.

5. Reliance is placed on:

The decision of the Hon'ble Apex Court in the case of Noorul Islam Educational Trust v. Commissioner of Income-tax-1*[2016] 76 taxmann.com 144 (SC)

Para 5

Section 127 of the Income-tax Act, 1961 Income-tax authorities Power to transfer cases (Conditions precedent) - Assessee's income-tax/assessment file was transferred from Assessing Officer, Tamil Nadu to Assessing Officer, Kerala - Assessee challenged transfer No agreement between two Jurisdictional Commissioners as required for transfer of case was shown by revenue - It was only stated by revenue that there was no disagreement between two Commissioners - Whether transfer of file could not be said to be authorized under section 127(2)(a) even though there was no disagreement between two jurisdictional Commissioners Held, yes Whether, therefore, impugned order of transfer could not be upheld - Held, yes [Para 5] [In favour of assessee]

5. The counter affidavit filed on behalf of the Revenue does not disclose that there was any such agreement. In fact, it has been consistently and repeatedly stated in the said counter affidavit that there is no disagreement between the two Commissioners. Absence of disagreement cannot tantamount to agreement as visualized under Section 127(2)(a) of the Act which contemplates a positive state of mind of the two jurisdictional Commissioners of Income Tax which is conspicuously absent.

- The decision of this Hon'ble Bench in the case of Atul Vrajlal Karia Vs. AC/DC (INT. TXN), Rajkot (ITA No.133/RJT/2025)
- The decision of Hon'ble Delhi ITAT in a case with similar factual matrix Vishan Gunna v. ACIT*[2025] 176 taxmann.com 959 (Delhi - Trib.)



- ACIT v. Y.S.Jagan Mohan Reddy Kadapa*[2025] 172 taxmann.com 205 (Hyderabad - Trib.)
- Gunjan Kumar Bihani v. Income-tax Officer*[2025] 177 taxmann.com 221 (Raipur - Trib.)
- Income-tax Officer v. Bhagyaarna Gems & Jewellery (P.) Ltd. *[2025] 171 taxmann.com 689 (Raipur - Trib.)
- ITO (IT) TDS-2 v. Tata Steel Ltd. [2024] 163 taxmann.com 345 (Mumbai - Trib.)
- Abdul Azeez Haroon v. DCIT (International Taxation) [2020] (115 taxmann.com 289) (Madras)
- Smt. Smriti Kedia v. UOI [2012] (20 taxmann.com 426) (Calcutta)

6. Therefore, the impugned assessment order passed without fulfilling the jurisdictional compliances is vague and bad-in-law.

e) The approval accorded by the designated authority is mechanical and without independent application of mind.

1. The assessment in the case of appellant trust has been reopened by the way of passing of order u/s 148A(d) of the Act and the subsequent issue of notice u/s 148 of the Act dated 07/04/2023.

2. The Ld. AO has contended to have obtained the approval u/s 151 of the Act from the Ld. PCCIT (Exemption), Delhi. The screenshot of the approval has been pasted hereunder for your reference:

22.	Reasons for according approval/ rejection by the specified authority to order u/s 148A(d) AND/OR issuance of notice under section 148 of the Income Tax Act, 1961?	Remarks: I have perused the draft order u/s 148A(d) appearing in the ITBA. The proposal of the CIT(E) is hereby approved. Name: RENU JAUHRI Designation: PCCIT (EXEMPTION), DELHI Date: 07/04/2023
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3. On perusal of the aforesaid snapshot, it is clearly discernible that, the approval memo merely contains the date of approval and the name and designation of the authority granting such approval. However, the said approval memo of the Ld. PCCIT (Exemption) is without affixation of his signature.



4. It is stated that a legal document without signature is invalid. To substantiate our claim, Section 282A(1) of the Act has been inserted hereunder:

Authentication of notices and other documents.

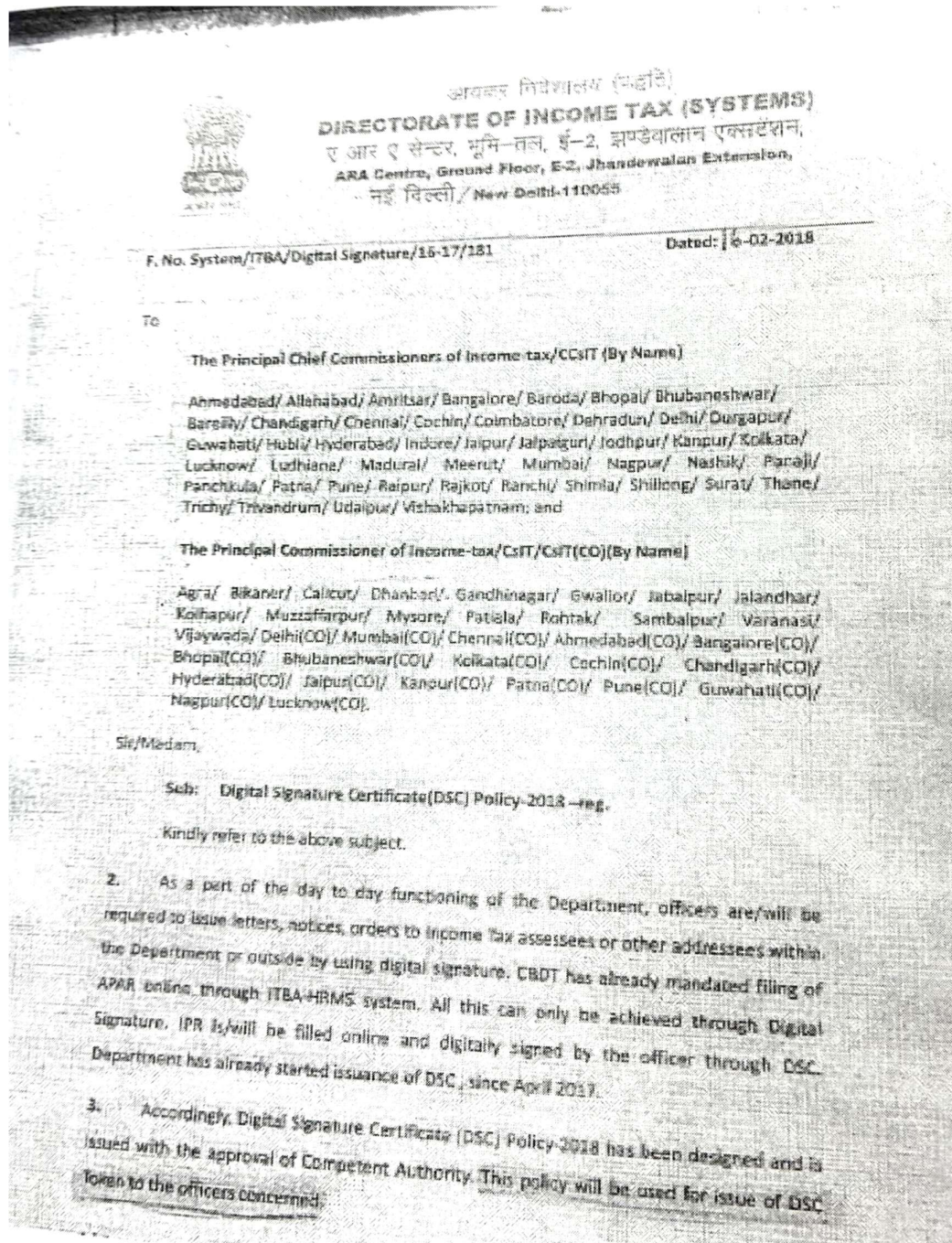
282A. (1) Where this Act requires a notice or other document to be issued by any income-tax authority, such notice or other document shall be signed and issued in paper form or communicated in electronic form by that authority in accordance with such procedure as may be prescribed.

5. On perusal of the aforesaid provisions, it is stated that any notice or other document shall be signed by the income- tax authority before its issuance, however, in the instant case no such compliance has been made by the Ld. AO.

6. Therefore, a notice or other document as referred in Section 282A (1) will take legal effect only after it is signed by that Income-tax Authority, whether physically or digitally. The usage of the word "shall" make it a mandatory requirement."

7. It is stated that, the said approval should be signed either digitally or physically by the hands of designated authority. In absence of digital signature, there must be a physical signature affixed, which is ex-facie not there on a copy furnished to us by the department. Therefore, the approval becomes non-est, non-existent and bad-in-law.

8. It is further submitted that, as per the Instructions of the Directorate of Income Tax (Systems) dated 16/02/2018 (F.No. System/ITBA/Digital Signature/16-17/181) regarding the Digital Signature Certificate (DSC) Policy - 2018. The Directorate vide para 2 of the instruction has made it compulsory for all the officers to issue letters, notices, orders by whatever name called issued outside or within the department by affixing a digital signature. The relevant snapshot of the said circular is pasted hereunder for your reference:



9. Further, the said view is also affirmed by the Central Board of Direct Taxes vide para 4.2 of Instruction No. 1/2018 dated 12th February, 2018. The said instruction is duly enclosed at page no. 85

10. Reliance is placed on:

The decision of this Hon'ble Bench in the case of Dhanji Murji Hirani, Baladia Vs. ITO (Int.Txn), Gandhidham ITA No.131 /RJT/2025

Para 9



From the above approval document, under section 151 of the Income Tax Act 1961, it is vivid that there is no signature of the concerned authority, therefore, in the absence of signature by the concerned Authority, the above approval document, cannot be enforced in the eye of law. In order to create a legal document, the first and primary condition is that it should be signed by the concerned authority. We note that section 151 of the Act, mandates prior approval of the "specified authority" before issuing a notice under Section 148 for income escaping assessment. If the document granting approval lacks a manual or digital signature, it calls into question the authority's satisfaction. Physical signature is the traditional evidence of approval. In ITBA (Income Tax Business Application), digital approvals (like authenticated login-based approvals) may suffice legally if appropriately recorded. In the above approval note we find that there is neither physical signature nor digital signature of any Income tax authority. However, where no authentication or evidence of the approving authority's satisfaction is found (either digitally or physically), the approval may be deemed invalid. Absence of evidence showing application of mind or digital signature led to reassessment quashing, and consequently, the reassessment order framed by the assessing officer, based on the above approval should be quashed.

- Vikas Gupta v. Union of India [2022] 142 taxmann.com 253 (Allahabad)
- Shri Prahlad Singh Vs. ITO (ITA No. 3375/DEL/2017) (Del. Trib.)
- Prakash Krishnavtar Bhardwaj v. ITO 150 taxmann.com 60 (Bombay)
- Sri Sessa Sai Township P. Ltd. V. ACIT I.T.A. Nos. 301 & 302/Viz/2015 (Viz. Trib.)
- Raghuvir Retailers Pvt. Ltd. vs PCIT (ITA No.919/KOL/2024) (Kolkata Tribunal)
- M/S. Taureg Properties & Security vs DCIT ITA. No.733/Del./2016 (Delhi Tribunal)
- M/s. Yeshoda Electricals vs ACIT (1175/Bang/2016) (Bang. Tribunal)

f) The approval u/s 151 of the Act is issued without complying with the provisions of section 282A(1) of the Act.

1. It is respectfully submitted that, the apart from the issue pertaining to the unsigned approval memo, the said approval is invalid and bad-in-law due to the non-application of mind by the designated authority before granting approval.

2. The reasons recorded by the designated authority while granting the approval nowhere suggests that, he has perused all the details and documents available on record before granting such approval and that, the reasons recorded by him while according the approval merely reflects a borrowed satisfaction from the CIT(E). The screenshot of the relevant extract of approval memo has been pasted hereunder for your reference:



22.	Reasons for according approval/ rejection by the specified authority to order u/s 148A(d) AND/OR issuance of notice under section 148 of the Income Tax Act, 1961?	Remarks: I have perused the draft order u/s 148A(d) appearing in the ITBA. The proposal of the CIT(E) is hereby approved. Name: RENU JAUHRI Designation: PCCIT (EXEMPTION), DELHI Date: 07/04/2023
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3. The designated authority has granted the approval merely by stating that, "I have perused the draft order u/s 148A(d) appearing in the ITBA. The proposal of the CIT(E) is hereby approved."

4. The Ld. PCCIT has failed to peruse the following facts while granting the approval:

- i. That, the show-cause notice u/s 148A(b) of the Act has been issued by the Ld. Other ITO and not by JAO.
- ii. Even though the notice u/s 148A(b) of the Act has been issued by the Ld. Other ITO, the proposal for passing the order u/s 148A(d) of the Act is received from JAO.
- iii. Whether there is any order u/s 127 of the Act due to the transfer of?
- iv. That, the appellant is not registered u/s 80G and under the FCRA regulations and also there is no Foreign Contribution received by the appellant, even then, the Ld. Other ITO vide notice u/s 148A(b) contends that there is a violation of 80G and FCRA.
- v. That, there are no credits deposits amounting to Rs. 95,05,842/-, i.e. the figure computed is incorrect and baseless.
- vi. That, the figures of incomes and expenditures computed suspected to be incorrect are on standalone basis and not on consolidated basis.

5. It is submitted that, if the Ld. PCCIT would have considered the erroneous legal position and the incorrect factual matrix of the impugned matter, then he would not have granted such an approval.

6. The objective or reasoning behind introduction of Section 151 of the Act is to provide an in-built safeguard and check on exercise of powers by the Ld. AO u/s 147/148 of the Act. It is trite law that the sanctioning authority is expected to judiciously review and then record objective satisfaction and reflects independent application of mind.

7. It is respectfully submitted that satisfaction that has been accorded by the Ld. Designated Authority cannot be regarded as a valid satisfaction since it does not reflect due application of mind of the sanctioning authority. The satisfaction only leads to the inescapable conclusion that there was in reality, no independent application of mind by the Ld. Designated Authority. This clearly vitiates the



purpose of the provisions of Section 151 sincere Ld. Designated Authority has failed to judiciously review and then record objective satisfaction. Hence, it can be stated that the sanction in terms of Section 1581 of the Act has been accorded in a mechanical manner without application of mind,

8. Therefore, it has been substantiated beyond doubt that, the Ld. PCCIT has failed to apply her mind judiciously and has accorded the approval mechanically and without application of mind and the reassessment proceedings initiated on the basis of such an approval is illegitimate and the assessment order is required to be quashed.

9. The Hon'ble Supreme Court in the case of CIT v. S. Goyanka Lime & Chemicals Ltd. [2015] 64 taxmann.com 313 has dismissed the SLP and held that where Joint Commissioner recorded satisfaction in mechanical manner by merely quoting yes I am satisfied and without application of mind to accord sanction for issuing notice under section 148, reopening of assessment was invalid.

10. Similar view has been taken by Hon'ble SC in the case of Chhugamal Rajpal vs. S.P. Chaliha & Ors. (SC) 79 ITR 603. The court was also of the opinion that the Commissioner had mechanically accorded permission. He did not himself record that he was satisfied that this was a fit case for the issue of a notice under section 148. To question No. 8 in the report which read whether the Commissioner is satisfied that it is a fit case for the issue of notice under section 148", he just noted the word "Yes" and affixed his signature thereunder. The Court was of the opinion that if only he had read the report carefully, he could never have come to the conclusion on the material before him that this was a fit case to issue notice under section 148. The important safeguards provided in section 147 and 151 were highly treated by the ITO as well as by the Commissioner. Both of them appeared to have taken the duty imposed on them under these provisions as of little importance. They substituted the forum for the substance. In the result this appeal was allowed, the order of the High Court was set aside and the impugned notice quashed.

11. It is further stated that provisions of Section 151 of the Act are an important procedural safeguard against arbitrary exercise of power of issuing a notice for reopening of assessment previously framed after scrutiny. Such requirement cannot be seen as technical. Compliance of such requirement is therefore, necessary before issuance of notice under section 148 of the Act as held in the case of Adani Ports And Special Economic Zone Ltd. V. DCIT [2013] 35 taxmann.com 338 (Gujarat) where it has been held that the satisfaction recorded



but the designated authority must reflect independent application of mind and not merely a borrowed satisfaction.

12. Reliance is placed on:

Union Of India vs Rajeev Bansal [2024] IN THE SUPREME COURT OF INDIA CIVIL APPELLATE/ORIGINAL JURISDICTION Civil Appeal No 8629 of 2024

The Income Tax Act 1961 also mandates assessing officers to fulfil certain pre-conditions before issuing a notice of reassessment. Section 149 requires assessing officers to issue a notice of reassessment under Section 148 within the prescribed time limits. Further, Section 151 requires assessing officers to obtain sanction of the specified authority before issuing notice under Section 148. In Chhugamal Rajpal v. S P Chaliha, a three-Judge Bench of this Court held that Section 151 must be strictly adhered to because it contains "important safeguards." 65 Section 151 imposes a check upon the power of the Revenue to reopen assessments.

The provision-imposes a responsibility on the Revenue to ensure that it obtains the sanction of the specified authority before issuing a notice under Section 148. The purpose behind this procedural check is to save the assesses from harassment resulting from the mechanical reopening of assessments.

- Dhanji Murji Hirani, Baladia Vs. ITO (Int.Txn), Gandhidham ITA No.131 /RJT/2025
- ITO vs. Mis. Virat Credit & Holdings Pvt. Ltd. (ITA No.89/Del./2012) (Delhi ITAT)

Ground No. 3:

That, the Ld. AO has wrongly passed the assessment order u/s 147 r.w.s. 144B r.w.s. 144 of the Act.

8. The Ld. AR further relied on the judgement of Diamond tmt and Procon (P.) Ltd. V. Income Tax Officer [2025] 179 taxmann.com 523 (Gujarat), held as:

“Where assessee’s case was statutory transferred to Bhavnagar under section 127 and return was filed there, subsequent notice under section 148 issued by ITO Ahmedabad based solely on PAN jurisdiction in ITBA system was without authority as no fresh transfer order existed, thus such notice and order disposing objections were to be quashed.”

9. On the other hand, the Ld.DR for the revenue relied on the order of the Ld.CIT(A).



10. We have heard the rival contention of both the parties and perused the material available on record and perused the order of the Ld.CIT(A) / AO, and the paper-book submitted by the assessee. We note that the assessee submitted that the case was wrongly reopened by the AO on incorrect fact as well as in violation of law. On perusal of the order u/s.148A(d) of the Act dated 07.04.2023 speak that the assessee has gross receipt of Rs. 32,500/- and expenditure of Rs. 39,600/- only. We further note that no return was filed by the assessee u/s. 139(4C)(e) of the Act, which is mandatory condition for claiming the exemption u/s. 11, 12 of the Act. That the assessee has get the Government grant from the State Government, no other receipts which are credited in the bank account except the interest. We perused the bank statement and noted that the fact is that the amount credited represent to the State Government without enquiry and verification it was consider to be income escapedment assessment. Kind attention is hereby drawn in the case of Mahatma Gobarji Seva Sansthan LOL vs. ITO [2025] 172 taxmann.com 89 (Gujarat)

Section 148A, read with section 147, of the Income-tax Act, 1961 - Income escaping assessment Conducting inquiry, providing opportunity before issue of notice under section 148 (General) - Assessment year 2019-20 - Assessee-trust did not file return of income as there was no taxable income - Assessing Officer issued reopening notices firstly under section 148A(a) and 148A(b) against assessee on basis of information that assessee had deposited certain amount in its bank account - Assessee explained that it was running a resident school/ashram shala and had received maintenance grant from State Government and deposited same in bank account and same was withdrawn and utilized towards expenses of ashram shala - Assessee further explained that there was no cash deposit made by assessee and transaction of amount was counted five times making it wrong reporting by bank - However, Assessing Officer did not consider such reply filed by assessee and passed order under section 148A(d) along with notice under section 148 - It was clear that from reasons recorded in notices issued under section 148A(a) and section 148A(b) that there was no cash deposit made by assessee in any of bank accounts and there was no information of any escaped income with Assessing Officer so as to initiate reopening proceedings - Moreover, explanation given by assessee in reply to notice under section 148A(a) and documents annexed therewith, prima facie, showed that there was no income earned by assessee but there was excess of expenditure over income for year under consideration - Whether therefore, Assessing Officer could not have assumed jurisdiction to reopen assessment - Held, yes [Paras 13 and 14] [In favour of assessee]



11. We note that the notice u/s. 148AB of the Act was issued by the ITO, wd-5, Gandhidham, vide order u/s. 148A(d) of the Act was passed by the ITO, wd – 1, Rajkot. That the assessee is registered trust under 12 of the Act has been carrying out a charitable activity the jurisdiction was that ITO(E), wd – 1, Rajkot, in this case notice issued by the non-jurisdictional officers. Hence invalid. Reliance is placed in the case of ACIT vs. Reshma Petrotech Ltd. (Ahd.Trib.) (21 taxmann.com 161), held that;

Section 148, read with section 147, of the Income-tax Act, 1961 - Income escaping Whether basic assessment - Issue of notice for Assessment year 2006-07 requirement of section 147 is that Assessing Officer has reason to believe that any income chargeable to tax has escaped assessment and such belief must be belief of jurisdictional Assessing Officer and not of any other Assessing Officer or authority or department - Held, yes - Whether, therefore, jurisdiction of Assessing Officer to reopen an assessment under section 147 depends upon issuance of a valid notice and, in absence of same, entire proceedings taken by him would become void for want of jurisdiction - Held, yes [In favour of assessee]

12. We further perused the approval obtained u/s. 151 of the Act from PCCIT(E) on 07.04.2023 page no. 82-83 of the paper-book. We note that the approval, removal, contention the date of approval, and the name, and designation of the authority granted such approval but it is not signed, keeping in view that the notice issued u/s. 148 of the Act and the assessment order is deserved to be set aside. Considering the facts and circumstances of the case, we are of the view that the reopening of assessment is not accordance with law. Hence, reopening of assessment proceedings is hereby quashed.

13. In the result, appeals of the assessee, are allowed.

Order is pronounced in the open court on 10/03/2026.

Sd/-
(Dr. Arjun Lal Saini)
Accountant Member

Rajkot
दिनांक/ Date: 10/03/2026

Sd/-
(Dr. Dinesh Mohan Sinha)
Judicial Member



Copy of the Order forwarded to

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

//True Copy//

By Order

Assistant Registrar/Sr. PS/PS
ITAT, Rajkot