

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH MUMBAI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER &
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER**

**ITA No. 5011/Mum/2025
(Assessment Year: 2019-20)**

Arham Anmol Projects Private Limited H. No. 1113, Ground Floor, Arham Logiparc, NH-3, Nashik Highway, Village Valshind, Bhiwandi, Maharashtra – 421 302.	Vs.	DCIT Circle 1, 2 nd Floor, Rani Mansion, Murbad Road, Kalyan (west), Thane, Maharashtra – 421 301
PAN/GIR No. AAGCA9644P		
(Applicant)		(Respondent)

Assessee by	Shri Subhash Bains, Ld. AR
Revenue by	Shri Surendra Mohan, Ld. DR

Date of Hearing	28.01.2026
Date of Pronouncement	26.03.2026

आदेश / ORDER

PER MAKARAND VASANT MAHADEOKAR, AM:

This appeal by the assessee is directed against the order dated 18.06.2025 passed by the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter referred to as “CIT(A)”] under section 250 of the Income-tax Act, 1961[hereinafter referred to as “the Act”] for Assessment Year

2019–20, arising from the assessment order dated 21.02.2024 passed under section 147 read with section 144B of the Act.

Facts of the Case

2. The assessee is a company engaged in the business of renting and maintenance of immovable property and construction services in respect of commercial or industrial buildings and civil structures. The assessee had not filed its original return of income for the year under consideration. Information available on the Insight Portal indicated that the assessee had entered into multiple financial transactions amounting to Rs. 2,94,31,158/-. Accordingly, notice under section 148 was issued on 27.03.2023.

3. In response, the assessee filed return of income on 26.04.2023 declaring total income of Rs. 58,16,560/-. Thereafter, statutory notices under sections 142(1) and 143(2) were issued. According to the Assessing Officer, the assessee sought adjournments but did not furnish substantive replies or supporting documentary evidence. A show cause notice under section 144 was also issued. In absence of compliance, the assessment was completed under section 147 read with section 144B. The Assessing Officer made the following additions:

- (i) Short Term Capital Gain – Rs. 4,54,49,186/-

It was observed that the assessee had sold multiple properties during the relevant previous year. Since no explanation regarding capital gains or cost of acquisition was furnished, the Assessing Officer treated the entire

sale consideration of Rs. 4,54,49,186/- as Short Term Capital Gain, taking the cost of acquisition at Nil.

(ii) Contract Receipts – Rs. 7,68,674/-

The Assessing Officer noted contract receipts of Rs. 64,05,620/- on which tax was deducted at source under section 194C. As no explanation was furnished and it could not be verified whether the same was incorporated in the Profit and Loss account, the Assessing Officer estimated profit at 12% and added Rs. 7,68,674/- to business income.

(iii) Professional Fees – Rs. 2,07,865/-

The assessee had received professional and technical fees of Rs. 4,15,730/-. In absence of explanation, 50% thereof amounting to Rs. 2,07,865/- was added as business income.

(iv) Rent Receipts – Rs. 2,00,25,538/-

The Assessing Officer observed that the assessee received rent receipts aggregating to Rs. 2,00,25,538/- on which tax was deducted under section 194IB. As no explanation was furnished and the receipts were not verifiable from the return, the entire amount was treated as business income.

Total Income was assessed at Rs. 7,22,67,823/-. Penalty proceedings under sections 270A and 272A(1)(d) were initiated. Interest under sections 234A, 234B, 234C and fee under section 234F were also levied.

4. The assessee preferred appeal before the CIT(A). Various notices were issued during appellate proceedings through registered email IDs. Hearing dates were fixed on multiple occasions. As recorded in the appellate order, the assessee did not furnish any written submissions or documentary evidence, except for seeking adjournment on one occasion. The appeal was therefore proceeded ex parte on the basis of material available on record.

5. The CIT(A) recorded that the assessee was a non-filer initially. The reopening was based on information regarding multiple financial transactions. The assessee failed to furnish any explanation either during assessment or appellate proceedings. No evidence was produced to rebut the additions made by the Assessing Officer. The burden of proof was not discharged. On merits, the CIT(A) agreed with the findings of the Assessing Officer and sustained the additions in entirety. The appeal was dismissed.

6. Aggrieved by the order of CIT(A), the assessee is in appeal before us raising following grounds of appeal:

***1.** On the facts and in the circumstances of the case and in law, the assessment u/s 147 rws 144B of the Income-tax Act, 1961 is invalid and illegal because the reopening of the assessment is not in conformity with the express legal provisions, therefore, order of CIT (Appeal)/NFAC is incorrect, the same may please be set aside as there is no independent application of mind by the AO while reopening the case.*

***1.1** The CIT (Appeal)/NFAC has wrongly confirmed AO's order which is issued without issuing notice u/s 143 (2) as per minimum prescribed*

requirement of law, hence the CIT (Appeal)/NFAC may please be set aside.

1.2 No relevant section of assessment is mentioned under which order dated 21/02/2024 has been framed, as was also highlighted in ground no.5 before 1st appellate authority. Therefore, assessment process is vitiated which has not been adjudicated by CIT (Appeal)/NFAC hence the order of CIT (Appeal)/NFAC may please be set aside.

2. Without prejudice to the above ground no.1, on the facts and in the circumstances of the case and in law, the Ld. CIT (Appeal)/NFAC erred in upholding the determination of the income of the appellant at Rs.7,22,87,823/- by the AO instead returned income of Rs.58,16,560/- without considering any logical expenditure in this case, therefore, order of CIT (Appeal)/NFAC may please be set aside.

2.1. The Ld. AO erred in making an addition of Rs. 4,54,49,186/- on account of variation in STCG by trading property cost at nil, therefore, order of CIT (Appeal)/NFAC is suffering from inherent mistake in confirming the same hence the same is requested to be set aside.

2.2. The Ld. AO erred in making an addition of Rs. 2,10,02,077/- on arbitrary basis as under:

- 12 percent of contract receipt Rs.7,68,674/-
- 50 percent of professional fees at Rs. 2,07,865/-
- The amount of Rs.2,00,25,538/- on account of rent receipt as per ITS without considering any expenditure & corroborative evidence.

Therefore, order of CIT (Appeal)/NFAC is suffering from inherent mistake in confirming the addition of Rs. 2,10,02,077/- hence the order of CIT (Appeal)/NFAC is requested to be set aside.

3. On the facts and in the circumstances of the case and in law, the factual matrix noted by CIT (Appeal)/NFAC in para 3.2 of appellate order dated 18/06/2025 should have been considered and natural justice defrayed in peculiar circumstances of this case especially facts mentioned in ground no. 6 of grounds of 1st appeal. Therefore, Hon'ble ITAT is urged to decide the case in consideration of all evidences to

grant relief to the appellant and set aside the order of CIT (Appeal)/NFAC.

4. On the facts and the circumstances of the case and in law, the Ld. AO erred in levying interest /Fee u/s 234A, 234B, 234C and 234F of the Act, and the order of CIT (Appeal)/NFAC is not correct as per procedure in confirming the same, hence the same is requested to be set aside.

5. On the facts and in the circumstances of the case and in law, the Ld. AO erred in initiating penalty u/s 270A of the Act, and the order of CIT (Appeal)/NFAC is not correct as per procedure in confirming the same, hence the same is requested to be set aside.

6. On the facts and in the circumstances of the case and in law, the Ld. AO erred in initiating penalty u/s 272A(1)(d) of the Act, and the order of CIT (Appeal)/NFAC is not correct as per procedure in confirming the same, hence the same is requested to be set aside.

7. The appellant craves leave to add, alter or delete all or modify any or all the above grounds of appeal as and when advised as per law.

7. At the time of hearing, the learned Authorised Representative (AR) submitted written submissions explaining the background facts and circumstances under which the assessee could not effectively respond before the Assessing Officer and the learned CIT(A).

8. The learned AR submitted that the assessee company was formed and registered by Mr. Vinod Malde and Mr. Sushil Bothra, who were promoter-directors of the company. It was stated that on the representation of Mr. Sushil Bothra, certain land was acquired in the name of the assessee company and warehouses were constructed thereon. Sale proceeds from the warehouses were deposited in the bank account of the assessee company. It was further submitted that disputes arose between the directors.

According to the submission, litigation was initiated in relation to construction activities allegedly carried out without permission of MMRDA. It was stated that Mr. Sushil Bothra did not attend to proceedings initiated against the company and the entire burden of handling litigation fell upon Mr. Vinod Malde.

9. The learned AR submitted that the assessee company and its director were entangled in multiple civil, criminal and regulatory proceedings during the relevant period. It was stated that search proceedings were conducted by the Sales Tax authorities, demolition notices were issued by MIDC, and a Writ Petition was filed before the Hon'ble Bombay High Court wherein interim relief was granted. Various complaints and proceedings were initiated before the police authorities, the Economic Offences Wing, the Company Law Board and the National Company Law Tribunal. It was further submitted that bank accounts of the company and its director were frozen and anticipatory bail proceedings were also undertaken. According to the learned AR, these circumstances caused severe financial and administrative hardship, preventing the assessee from properly responding to assessment and appellate notices.

10. It was contended that the non-compliance before the Assessing Officer and the learned CIT(A) was not deliberate but was due to circumstances beyond the control of the assessee. It was also submitted that the assessment order contains reference to section 144 though framed under section 147, which according to the assessee reflects procedural irregularity. The learned AR

further prayed for admission of additional evidences, which could not be filed before the lower authorities, in the interest of justice and for proper adjudication of the appeal.

11. On the legal issue, the learned AR submitted that although the assessment has ultimately been completed by the Assessment Unit under section 147 read with section 144B, the mandatory notice under section 143(2) was not issued by the authority which framed the assessment. It was contended that issuance of notice under section 143(2) is a sine qua non for assuming jurisdiction to proceed with scrutiny assessment and such notice must be validly issued by the Assessing Officer competent to carry the assessment to its logical conclusion.

12. The learned AR submitted that in the present case, the notice under section 143(2) was issued by the Jurisdictional Assessing Officer, whereas the assessment was completed by the Assessment Unit under the faceless scheme. According to the learned Authorised Representative, such bifurcation of functions renders the proceedings defective if the officer completing the assessment has not himself issued the mandatory notice. It was argued that the assumption of jurisdiction by the Assessment Unit must be founded upon a valid statutory notice in conformity with law, failing which the assessment stands vitiated.

13. It was further submitted that section 292BB cannot cure a foundational defect relating to jurisdiction. The deeming fiction under section 292BB, according to the learned Authorised

Representative, applies only to defects in service of notice and not to cases where the statutory requirement of valid issuance by the competent authority is not satisfied. It was therefore contended that if the mandatory requirement of section 143(2) is not strictly complied with in the manner contemplated by law, the defect is incurable and the resultant assessment is liable to be quashed.

14. The learned AR accordingly prayed that the assessment framed under section 147 read with section 144B be held to be invalid in law and that the order of the learned CIT(A) confirming the same be set aside.

15. The learned Departmental Representative (DR) submitted written submissions opposing the legal ground raised by the assessee regarding non-issuance of notice under section 143(2). It was contended that in the present case notice under section 143(2) was duly issued and served upon the assessee by the Jurisdictional Assessing Officer, namely ACIT, Circle-1, Kalyan, and a copy thereof was placed on record. It was therefore submitted that the contention of the assessee that no notice under section 143(2) was issued is factually incorrect.

16. The learned DR further submitted that there exists concurrent jurisdiction between the Jurisdictional Assessing Officer and the Faceless Assessing Officer in proceedings under section 148 and subsequent assessment. Reliance was placed on judicial precedents to contend that pursuant to section 120(5) and the notifications issued by the Central Board of Direct Taxes,

including Notification No. 64/2020, the National Faceless Assessment Centre and its units exercise the powers and functions of an Assessing Officer concurrently with the Jurisdictional Assessing Officer. It was submitted that section 144B is procedural in nature and transfers only the function of completing the assessment to the faceless units, while the original jurisdiction over the assessee continues to vest with the Jurisdictional Assessing Officer.

17. It was argued that the reassessment framework contemplates a two-stage process, namely, the initial inquiry and formation of opinion under section 148A by the Jurisdictional Assessing Officer and the actual assessment by the faceless unit. Section 144B does not provide an exclusive machinery for pre-issuance stages of notice under section 148, and therefore the Jurisdictional Assessing Officer retains authority to issue such notices. It was further submitted that the retrospective deletion of sub-section (9) of section 144B indicates legislative intent to avoid invalidation of assessments on technical procedural grounds.

18. The learned DR also contended that the jurisdictions of the Jurisdictional Assessing Officer and the faceless units are complementary and not mutually exclusive, and that the power of transfer under section 127 further supports this position. It was submitted that once the notice under section 148 issued by the Jurisdictional Assessing Officer is valid, the consequential notice under section 143(2) cannot be treated as invalid.

19. We have carefully considered the rival submissions on the legal issue concerning the validity of the assessment in light of the admitted factual position that notice under section 143(2) was issued by the Jurisdictional Assessing Officer, whereas the assessment has been completed by the Assessment Unit under section 147 read with section 144B of the Act.

20. The challenge of the assessee proceeds on the premise that the officer who completes the assessment must himself issue the notice under section 143(2), and that bifurcation between issuance of notice and completion of assessment renders the proceedings void. In order to examine this contention, it becomes necessary to evaluate the issue in the context of the statutory scheme governing the assessment and reassessment process, particularly for Assessment Year 2019–20 where reassessment has been completed under the faceless regime introduced by section 144B.

21. Under the traditional assessment regime, prior to the introduction of the faceless scheme, the law required that where a return is filed, issuance of notice under section 143(2) is mandatory if the Assessing Officer seeks to proceed with scrutiny assessment. The jurisprudence has consistently held that absence of such notice is fatal. However, there has never been a statutory requirement that the very same officer who issues the notice must necessarily complete the assessment. Assessments have routinely been upheld where notice under section 143(2) was issued by one Assessing Officer and the assessment was

completed by a successor officer or by another officer upon transfer of jurisdiction, provided that jurisdiction was validly vested under sections 120 and 124 of the Act. Thus, even under the conventional regime, continuity of officer was not a jurisdictional mandate.

22. With the introduction of the e-assessment and subsequently the statutory faceless assessment regime under section 144B, the nature of allocation of functions underwent procedural restructuring. Section 144B prescribes the manner in which assessment or reassessment shall be conducted through designated units such as the Assessment Unit, Review Unit and Technical Unit, functioning under the National Faceless Assessment Centre. However, section 144B does not divest the Jurisdictional Assessing Officer of statutory jurisdiction conferred under section 120. The notifications issued by the Central Board of Direct Taxes in exercise of powers under section 120(5) contemplate concurrent exercise of powers by the Jurisdictional Assessing Officer and the faceless units. The scheme, in our opinion, is therefore one of functional allocation rather than jurisdictional extinction.

23. In reassessment proceedings under the post-2021 regime, the statutory structure itself reflects segmentation of stages. The inquiry under section 148A, issuance of notice under section 148 and other foundational steps are ordinarily undertaken by the Jurisdictional Assessing Officer. Upon filing of return in response to notice under section 148, the case is thereafter processed

under the faceless procedure for completion of assessment in accordance with section 144B. The law does not mandate that the Assessment Unit must re-issue a notice under section 143(2) where such notice has already been validly issued by a competent Assessing Officer. Section 144B is procedural in character and regulates the manner of conducting assessment; it does not create a separate or exclusive jurisdictional class of Assessing Officer.

24. In the present case, it is an admitted position that notice under section 143(2) was issued by the Jurisdictional Assessing Officer. There is no material placed before us to suggest that such officer lacked territorial or functional jurisdiction, or that the notice was issued beyond the prescribed limitation period. The statutory requirement of issuance of notice under section 143(2), which is jurisdictional in nature, therefore stands satisfied. The fact that the assessment was subsequently completed by the Assessment Unit under section 144B, pursuant to the faceless scheme, does not render the foundational notice invalid. The Act nowhere provides that the officer completing the assessment must necessarily be the same officer who issued the notice under section 143(2). The bifurcation of stages between issuance of notice and completion of assessment is inherent in the statutory design of the faceless regime.

25. It is also relevant that the earlier sub-section (9) of section 144B, which provided for invalidation of assessment for certain non-compliances, has been retrospectively deleted. The legislative

intent discernible therefrom is to prevent assessments from being annulled on hyper-technical procedural grounds, particularly where foundational jurisdictional requirements are satisfied. In the present case, since the notice under section 143(2) has in fact been issued by a competent Jurisdictional Assessing Officer, the argument of complete absence of notice does not survive. The provisions of section 292BB, which cure defects in service of notice, do not even arise for consideration in a situation where the notice itself stands issued.

26. Evaluating the issue across different assessment regimes, whether under the traditional jurisdictional model, the transitional hybrid phase of faceless implementation, the earlier e-assessment scheme or the statutory regime under section 144B, the legal position remains consistent that issuance of notice under section 143(2) by a competent Assessing Officer satisfies the mandatory jurisdictional requirement. Completion of assessment by another officer or designated unit, pursuant to statutory allocation of functions, does not vitiate the proceedings in absence of specific statutory prohibition.

27. In view of the above discussion, we are of the considered opinion that the issuance of notice under section 143(2) by the Jurisdictional Assessing Officer, followed by completion of reassessment by the Assessment Unit under section 147 read with section 144B, does not suffer from any jurisdictional infirmity. The legal ground raised by the assessee on this issue is therefore rejected. The assessment cannot be held to be invalid

on the basis of the bifurcation between issuance of notice and completion of assessment under the faceless regime.

28. The learned AR has placed strong reliance upon the judgment of the Hon'ble Bombay High Court in **Hexaware Technologies Ltd. v. ACIT (162taxmann.com225)**, wherein the Court examined the scheme framed under section 151A and the E-Assessment of Income Escaping Assessment Scheme, 2022. The Hon'ble Bombay High Court held, inter alia, that once the scheme mandates issuance of notice under section 148 through automated allocation in a faceless manner, the Jurisdictional Assessing Officer could not assume authority to issue such notice. The Court observed that there is no concept of concurrent jurisdiction between the Jurisdictional Assessing Officer and the Faceless Assessing Officer for issuance of notice under section 148. It was held that when the scheme specifically provides for issuance of notice through automated allocation, the power vests exclusively in the faceless machinery. The reasoning proceeds on strict interpretation of section 151A and the notified scheme, emphasising that any deviation from the statutory framework renders the notice invalid. The Hon'ble Bombay High Court treated the scheme as mandatory and not directory, and held that an act contrary to the statutory scheme causes inherent prejudice.

29. The assessee has invoked this line of reasoning to contend that where statutory allocation is prescribed, deviation affects jurisdiction and is not merely procedural. The underlying

principle emerging from **Hexaware** is that where the scheme expressly assigns authority for issuance of notice to a faceless mechanism, the Jurisdictional Assessing Officer cannot bypass it. The decision therefore turns upon the stage of issuance of notice under section 148 and the exclusivity of allocation under section 151A read with the scheme.

30. On the other hand, the learned DR has relied upon the decision of the Hon'ble Delhi High Court in **Inder Dev Gupta v. ACIT 180 taxmann.com 805**. In that case, the Hon'ble Delhi High Court examined the identical question whether the Jurisdictional Assessing Officer retains power to issue notice under section 148 after the introduction of section 151A and the 2022 Scheme. The Court referred to its earlier binding decision in **TKS Builders (P.) Ltd. 167 taxmann.com 759** and held that both the Jurisdictional Assessing Officer and the Faceless Assessing Officer possess concurrent jurisdiction to initiate reassessment proceedings. It rejected the contention that the scheme completely divests the Jurisdictional Assessing Officer of authority. The Hon'ble Court further clarified that dismissal of special leave petitions against contrary High Court decisions does not amount to declaration of law under Article 141 unless reasoned orders are passed. It therefore maintained the view that concurrent jurisdiction continues to operate within the statutory framework.

31. In **T.K.S. Builders (P.) Ltd.**, the Hon'ble Delhi High Court undertook an elaborate analysis of sections 144B and 151A of the

Act and the Faceless Reassessment Scheme, 2022. The Court categorically held that section 144B is fundamentally procedural and cannot be construed as the exclusive repository of the power to assess or reassess. In paragraph 76, the Hon'ble Court observed:

“Thus, all the contingencies and situations which are spoken of in Explanations 1 and 2 are not founded on the material or the data which may be available with NFAC. The statute thus clearly conceives of various scenarios where the case of an individual assessee may be selected for examination and scrutiny on the basis of information and material that falls into the hands of the JAO directly or is otherwise made available with or without the aid of the RMS. It would, therefore, be erroneous to view section 144B as constituting the solitary basis for initiation of reassessment. In this regard, section 144B is primarily procedural and is principally concerned with prescribing the manner in which a faceless assessment may be conducted as opposed to constituting a source of power to assess or reassess in itself.” [Para 76]

Again, in paragraph 77, the Hon'ble Court held:

“Consequently, to ascribe substantive value to section 144B as the primary basis for reassessment would be to misinterpret its intended meaning. Section 144B is not intended to establish a substantive basis for the exercise of reassessment powers; rather, it is inherently procedural. Its function is confined to outlining the processes through which faceless assessments are to be conducted...” [Para 77]

Further, in paragraph 82, the Hon'ble Court expressly recognised the concept of concurrent jurisdiction:

“As was noticed hereinbefore, the conferred jurisdiction upon authorities for the purposes of faceless assessment itself uses the expression ‘concurrently’. That word would mean contemporaneous or in conjunction with as opposed to a complete ouster of the authority otherwise conferred upon an authority under the Act. This too is clearly demonstrative of the Act not intending to deprive the JAO completely of the power to reassess...” [Para 82]

In paragraph 85, the Court emphatically concluded:

“...it would be wholly incorrect to hold or construe the provisions of the Act as denuding the JAO of the authority to undertake an assessment or of the said authority being completely deprived of authority and jurisdiction. ... The Act envisaging a coexistence of the two modes.”
[Para 85]

Finally, in paragraph 103, the Hon’ble Court harmonised the reassessment process into two stages and held:

“...It thus divides the process of reassessment into two stages and when viewed in that light it is manifest that it strikes a just balance between the obligation of the JAO to scrutinise information and the conduct of assessment itself through a faceless allocation. The distribution of functions between the JAO and NFAC is complimentary and concurrent as contemplated under the various schemes and the statutory provisions.” [Para 103]

32. Thus, the ratio of **T.K.S. Builders** is that section 144B structures the manner of assessment but does not extinguish or override the foundational jurisdiction of the Jurisdictional Assessing Officer under section 120. The reassessment process is viewed as bifurcated into stages, where evaluation and initiation may lie with the JAO and the actual assessment may proceed through faceless allocation, both operating in tandem.

33. The Hon’ble Delhi High Court’s approach is based on harmonized interpretation of sections 120, 144B and 151A. It treats the faceless scheme as regulating procedure rather than extinguishing statutory jurisdiction conferred under section 120. According to this view, automated allocation governs

administrative routing of cases but does not impliedly repeal the foundational jurisdiction of the Jurisdictional Assessing Officer.

34. Thus, the apparent divergence between the two Hon'ble High Courts lies in their understanding of whether the scheme under section 151A creates exclusivity or whether it operates alongside the existing jurisdictional framework. The Hon'ble Bombay High Court in **Hexaware** adopts an exclusivity model for issuance of notice under section 148. The Hon'ble Delhi High Court in **Inder Dev Gupta** adopts a concurrency model.

35. However, it is important to note that the controversy in **Hexaware** concerned issuance of notice under section 148 itself. The Hon'ble Bombay High Court was examining whether the Jurisdictional Assessing Officer could initiate reassessment contrary to the scheme which required automated allocation. The present case stands on a different footing. Here, the notice under section 148 is not under challenge. The notice under section 143(2), which is subsequent to filing of return, was issued by the Jurisdictional Assessing Officer, and the assessment was completed by the Assessment Unit under section 144B. The scheme under section 151A primarily governs issuance of notice under section 148 and pre-assessment procedures, whereas section 144B governs the procedure for completion of assessment.

36. The Hon'ble Delhi High Court in **Inder Dev Gupta** has categorically held that concurrent jurisdiction between the

Jurisdictional Assessing Officer and the Faceless Assessing Officer is legally sustainable, and that issuance of notice by the Jurisdictional Assessing Officer is not ipso facto void. This decision, being subsequent and directly addressing the concurrency issue, lends support to the proposition that bifurcation of functions does not necessarily vitiate proceedings.

37. Within the territorial jurisdiction of the Hon'ble Bombay High Court, the ratio of **Hexaware** would ordinarily bind this Tribunal to the extent of its factual and legal context. However, **Hexaware** dealt with validity of notice under section 148 in light of section 151A. The present issue concerns issuance of notice under section 143(2) and subsequent completion of assessment under section 144B. There is no finding in **Hexaware** that a notice validly issued by a competent Assessing Officer under section 143(2) becomes invalid merely because the assessment is completed by the Assessment Unit.

38. The Hon'ble Delhi High Court's reasoning in **Inder Dev Gupta**, which affirms concurrent jurisdiction and recognises that both JAO and FAO may exercise statutory powers, is directly relevant in evaluating the bifurcation between issuance of notice and completion of assessment. While the divergence between Hon'ble High Courts remains pending consideration before the Supreme Court, there is no authoritative pronouncement holding that once a valid notice under section 143(2) is issued by a competent Jurisdictional Assessing Officer, the assessment

becomes void if completed by the Assessment Unit in accordance with section 144B.

39. Upon harmonizing the statutory provisions and judicial precedents, we find that the ratio of **Hexaware** does not extend to invalidate proceedings where the mandatory notice under section 143(2) has been issued by a competent Assessing Officer and the assessment is thereafter completed under the faceless regime as contemplated by section 144B. The Hon'ble Delhi High Court's view in **Inder Dev Gupta** reinforces the principle that concurrent or complementary jurisdiction survives notwithstanding the faceless scheme.

40. Accordingly, even after considering in detail the authorities cited by both parties, we are unable to accept the contention that the assessment stands vitiated solely on the ground that notice under section 143(2) was issued by the Jurisdictional Assessing Officer and the assessment was completed by the Assessment Unit. The legal ground raised by the assessee is therefore rejected.

41. We now proceed to examine the issues on merits.

The assessment in the present case has been framed under section 147 read with section 144B primarily on the basis of information available on the Insight Portal and ITS data. The additions made by the Assessing Officer comprise: (i) Short Term Capital Gain of Rs. 4,54,49,186/- by treating the entire sale consideration of certain properties as income on the footing that

cost of acquisition was not furnished; (ii) estimation of income at 12% on contract receipts amounting to Rs. 7,68,674/-; (iii) estimation of 50% of professional receipts amounting to Rs. 2,07,865/-; and (iv) addition of rent receipts of Rs. 2,00,25,538/- as business income. These culminated in assessment of total income at Rs. 7,22,67,823/- as against returned income of Rs. 58,16,560/-.

42. From the assessment order as well as the order of the learned CIT(A), it emerges that the additions have been made essentially on account of non-compliance and absence of documentary substantiation during assessment proceedings. The Assessing Officer has proceeded ex parte under section 144 and adopted a mechanical approach by taking cost of acquisition at Nil in respect of property transactions and by estimating income percentages on gross receipts reflected in ITS. The learned CIT(A) has also dismissed the appeal substantially on account of non-prosecution and has confirmed the additions without detailed examination of the factual matrix or evidences.

43. Before us, the learned AR has explained that due to multiple litigations, freezing of bank accounts and other extraordinary circumstances, the assessee could not effectively participate before the lower authorities. It has been submitted that the additions, particularly in respect of capital gains and rental income, have been made without considering relevant documents such as purchase deeds, cost details, computation of capital

gains, and reconciliation of receipts with books of account. Additional evidences have been sought to be placed on record.

44. On perusal of the record, we find that the addition of Rs. 4,54,49,186/- towards Short Term Capital Gain has been made by treating the entire sale consideration as taxable gain without examination of cost of acquisition, indexed cost, nature of asset, period of holding or computation as per sections 45 and 48. Such an approach, though prompted by absence of details, does not constitute a proper determination of taxable capital gains in accordance with law.

46. Similarly, in respect of contract receipts and professional fees, the Assessing Officer has applied ad hoc percentages without rejecting books of account or conducting any verification. The addition of entire rent receipts as business income also appears to have been made solely on the basis of ITS data without examining whether such receipts were already accounted for in the return or whether any expenditure was incurred in earning such income.

47. At the same time, it cannot be ignored that the assessee did not furnish necessary details during assessment and appellate proceedings, resulting in the ex parte orders. The failure of the assessee to discharge the initial burden of proof has materially contributed to the additions.

48. Considering the totality of circumstances, we are of the view that the issues on merits require fresh factual examination. The

determination of capital gains cannot be sustained merely by adopting Nil cost without verifying purchase documents. Estimation of business income requires examination of books of account and reconciliation of receipts. The rental income needs to be correlated with books and nature of activity. These aspects necessitate proper verification at the assessment stage.

49. In the interest of justice and to afford one final opportunity to the assessee to substantiate its claims, we deem it appropriate to restore the entire matter relating to the additions on merits to the file of the Assessing Officer. The Assessing Officer shall examine afresh the issues of capital gains, contract receipts, professional income and rental receipts in accordance with law, after affording reasonable opportunity of being heard to the assessee and after considering all evidences and explanations that may be furnished.

50. The assessee is directed to cooperate fully and furnish complete documentary evidence in support of its contentions without seeking unwarranted adjournments. In the event of failure to comply, the Assessing Officer shall be at liberty to proceed in accordance with law on the basis of material available on record.

51. Accordingly, the additions on merits are set aside and restored to the file of the Assessing Officer for fresh adjudication in accordance with law. The appeal of the assessee is allowed for statistical purposes.

52. In the result, the legal grounds challenging the validity of the assessment are dismissed. However, the issues on merits relating to the additions made under section 147 read with section 144B are set aside and restored to the file of the Assessing Officer for fresh adjudication in accordance with law, after affording reasonable opportunity of being heard to the assessee.

53. The appeal of the assessee is accordingly partly allowed for statistical purposes.

Order pronounced in the open court on 26.03.2026.

Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER

Sd/-
(MAKARAND VASANT MAHADEOKAR)
ACCOUNTANT MEMBER

Mumbai, Dated 26/03/2026
Dhananjay, Sr.PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / The CIT(A)
4. आयकर आयुक्त (अपील) / Concerned CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुम्बई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई / ITAT, Mumbai