

**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH, KOLKATA**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER  
AND SHRI MANJUNATHA G., ACCOUNTANT MEMBER**

**ITA Nos.111&112/Kol/2026  
Assessment Years: 2014-15 & 2015-16**

<b>Meenakshi Mittal Agarwal</b> S.N.T Bus Stand, P.S. Road, Gangtok, East Sikkim- 737101. (PAN: AUGPA6288A)	Vs	<b>ITO, Ward-3(1), Gangtok</b>
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by : Shri S. K. Pransukha, AR  
Revenue by : Shri Sandeep Lakra, Addl. CIT, Sr. DR

Date of Hearing : 07.04.2026  
Date of Pronouncement : 07.04.2026

**ORDER**

**Per Bench:**

These are the two appeals filed by the assessee against the orders of the Commissioner of Income Tax (Appeals), NFAC, Delhi [hereinafter referred to as the 'CIT(A)'] in appeal no.NFAC/2013-14/10146804 & NFAC/2014-15/10109339 both dated 15.02.2025 for the assessment years 2014-15 & 2015-16.

2. Shri S. K. Pransukha, AR, represented on behalf of the assessee and Shri Sandeep Lakra, Sr. DR represented on behalf of the revenue.

3. At the time of hearing, the ld. AR has raised the following additional grounds:

*“1. On facts and circumstances and in law, the assessment order dt 08.03.2022 under section 147 rws 144, 144B is invalid as order has been passed pursuance to search action 132 on 30.11.2017 (before 01.04.2021) in the premises of her husband Shri Sanjay Mittal Agarwal whereas same should have been passed under section 153C.*

*2. On facts and circumstances of the case, National faceless Assessment Centre (NFAC) erred in having assumed jurisdiction u/s 151A r.w.s 144B of the I.T. Act 1961 and passed assessment order on 08.03.2022 in faceless manner without having any jurisdiction in terms of 151A and scheme there under which is effective from 29.03.2022.*

*3. Appellant crave leave for add, delete, modify any other ground at or before hearing.”*

4. It was submitted by the ld. AR that in both cases, the assessment orders in the case of the assessee have been passed on 08.03.2022 by the NFAC. It was the submission that the NFAC got the power to pass assessment order only w.e.f. 29.03.2022. It was the submission that the issue is squarely covered by the decision of Coordinate Cuttack Bench of this Tribunal Nand Kumar Choudhury vs. ITO in ITA No.420/CTK/2025 dated 22.09.2025 wherein the Coordinate Bench has held as follows:

*2. It was submitted by the ld. AR that the assessment order in the case of assessee has been passed by the NFAC on 28.03.2022. It was the submission that the Notification by which the National Faceless Assessment Centre was made effective is dated 29.03.2022. It was the submission that consequently the assessment order passed on 28.03.2022 is liable to be quashed. Ld. AR placed reliance on the decision of the coordinate bench of the Tribunal in the case of Md. Mahimud SK in ITA Nos.2230&2229/Kol/2024 pronounced on 04.03.2025, wherein in para 10 to 12, the coordinate bench of the Tribunal has held as under :-*

*“010. After hearing the rival contentions and perusing the materials available on record, we find that the notice to the assessee was issued u/s 148 of the Act on 31.03.2021, through e-mail after the case was reopened u/s 147 of the Act. Notice u/s 143(2) read with section 147 of the Act was issued on 29.06.2021 and thereafter, the proceedings would taken over by National Faceless Centre, Delhi and notice u/s 142(1) dated 09.02.2022, was issued and thereafter show cause was issued to assessee by the NFAC on 17.03.2022.*

Finally, the assessment was framed u/s 147 read with section 144B of the Act vide order dated 23.03.2022.

011. We have perused the section of Section 151A of the Act, which deals with the faceless assessment of income escaping assessment and was brought on the statute book by taxation and other law (realization and amendment of certain provisions) Act, 2020, with effect from 01.11.2020 which was notified on 29.03.2022 vide notification no.18/2022/F. No. 370142/16/2022-TPL(Part)]. Therefore, the assessment proceedings were taken by the National Faceless Assessment Centre, Delhi by issuing notice u/s 142(1) dated 09.02.2022 and thereafter the assessment was framed accordingly after issuing show cause notice which in our opinion is without jurisdiction. The provision of Section 151A of the Act were brought on the statute book with effect from 01.11.2020. However, the same were made effective and applicable with effect from 29.03.2022 vide notification no. when the CBDT notified the new scheme for assessment of income escaping assessment scheme, 2022. In our considered view the assessment framed is without jurisdiction and cannot be sustained. The case of the assessee find force from the decision of *Nabiul Industrial Metal Pvt. Ltd., Paschim Medinipur VS. I.T.O.*, in ITA no. 1328/KOL/2024 for A.Y. 2017-18, the order dated 15.10.2024, wherein a similar issue has been decided in favor of the assessee. For the sake of ready reference, the notice issued u/s 142(1) dated 09.02.2022 and show cause notice dated 17.03.2022, are extracted below:-



GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
INCOME TAX DEPARTMENT  
National Faceless Assessment Centre  
Delhi



To,  
MD MAHIMUD SK  
S/O ABDUL RAJAK VILL-KISMAT NARAYANPUR,PO-  
SRIRAMPUR,SD-ENGLISHBAZAR  
MALDA 732216,West Bengal

PAN:  
BQYPS8209L

Assessment Year:  
2015-16

Date:  
09/02/2022

DIN:  
ITBA/AST/F/142(1)/2021-  
22/1039573181(1)

Notice under sub-section (1) of Section 142 of the Income Tax Act, 1961

Dear Taxpayer,

Kindly refer to ongoing assessment proceedings in your case for A.Y. 2015-16 under Faceless Assessment Scheme, 2019.

2. We appreciate the anxiety and uncertainty that is facing all of us in the times of Covid-19. This communication is to assist you in ending the uncertainty, which is pending e-Assessment in your case for the Assessment Year 2015-16.
3. You are requested and required to kindly furnish or cause to be furnished on or before 12/02/2022 by 04:47 PM, the accounts and documents specified in the Annexure to this notice.
4. The accounts or documents, as mentioned above, are required to be submitted online electronically in 'E-proceedings' facility through your account in e-Filing website ([www.incometaxindiaefiling.gov.in](http://www.incometaxindiaefiling.gov.in))

Yours faithfully,

Additional / Joint / Deputy / Assistant Commissioner of Income Tax,  
National Faceless Assessment Centre,  
Delhi



GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
INCOME TAX DEPARTMENT  
National Faceless Assessment Centre  
Delhi



2

To,  
MD MAHIMUD SK  
S/O ABDUL RAJAK VILL-KISMAT  
NARAYANPUR ,PO-SRIRAMPUR SD,  
ENGLISHBAZAR  
MALDA 732216 ,West Bengal  
India

PAN: BQYP58209L	Assessment Year: 2015-16	Date: 17/03/2022	DIN: ITBA/AST/F/147(SCN)/2021- 22/1040949460(1)
--------------------	-----------------------------	---------------------	---

Show cause Notice as to why the proposed variation should not be made

Mr/ Mri M/s,

- We appreciate the anxiety and uncertainty that is facing all of us in the times of Covid-19. This communication is to assist you in ending one uncertainty, which is pending e-Assessment in your case for the Assessment Year 2015-16.
- The variations as per the draft assessment order may be seen which are proposed to be made in your case:-

Credible information had been received for the FY 2014-15 relevant to AY 2015-16, that the assessee had aggregated credit turnover is Rs. 16.99 lacs and debit turnover is 16.99 lacs during the period 01.04.2014 to 31.03.2015 in the bank accounted maintained in Bank of Baroda bearing a/c no. 39920100006975. Prima facie there was reason to believe that the assessee had total credit/deposit in bank account during the FY 2014-15 relevant to AY 2015-16 is Rs. 38,65,557/-, which has escaped assessment within the meaning of section 147 of the Act. Assessment proceedings u/s 147 were initiated after recording reasons and seeking prior approval of Pr. Commissioner of Income-tax. Accordingly, statutory notice U/s 148 of the Act was issued & sent to the assessee by DIN & Document No. ITBA/AST/S/143/2020-21/1032066973(1) dated 31.03.2021 through E-mail requiring the assessee to file his Income Tax Return for the A.Y 2015-16 within 30 days of service of the said notice. In compliance of notice u/s 148, the assessee filed her return of income vide acknowledgement No. 345978730280421 dated 28.04.2021 declaring an income of Rs. 2,25,800/-. During the year under consideration the assessee earned income under the Head Income from Business and Income from other Sources. Statutory notices u/s 143(2), 142(1) alongwith questionnaire were issued to assessee.

2. During the course of assessment proceedings it has been noticed that assessee had deposited cash in Bank of Baroda bearing a/c no. 39920100006975 and in State Bank of India bearing A/c No. 31561107456. In response to notice u/s 143(2) dated 29.05.2021, assessee submitted his reply dated 11.08.2021 stating that he has filed his return of income for the AY 2015-16 showing a turnover of Rs. 25,45,080/- and Net Profit u/s 44AD of Rs. 2,25,780/- besides this assessee receives S/B Interest of Rs. 3,280/- during the A.Y. 2015-16. He is doing mainly labour/Contract business on the different part

of the country and sometimes in local basis. He receives cash from different contractee and paid to the daily workers on cash basis. Whenever, he does not receive any contract he deposited the cash in the bank accounts and later on he again withdraws cash from Bank and pay the daily workers if he receive any contract work. Notice u/s 142(1) dated 29.12.2021 was issued to the assessee to furnish detailed computation of income, brief note indicating the nature of business/professional activities carried out by him and explain the source of cash deposit in the above said accounts. In response to notice u/s 142(1) dated 29.12.2021, assessee did not submit his reply. After that, again a notice u/s 142(1) dated 09.02.2022 was issued to furnish detailed computation of income, copy of cash flow statement, details of contract made with documentary evidence and details of payment to the labour with documentary evidence. But, assessee again did not submit his reply.

3. A final show cause notice u/s 144 of the I.T Act, 1961 was issued to the assessee on 23.02.2022 for the sake of natural justice and providing one more and last opportunity to explain requesting him to furnish the requisite details on or before 25.02.2022. The assessee again failed to furnish any reply.

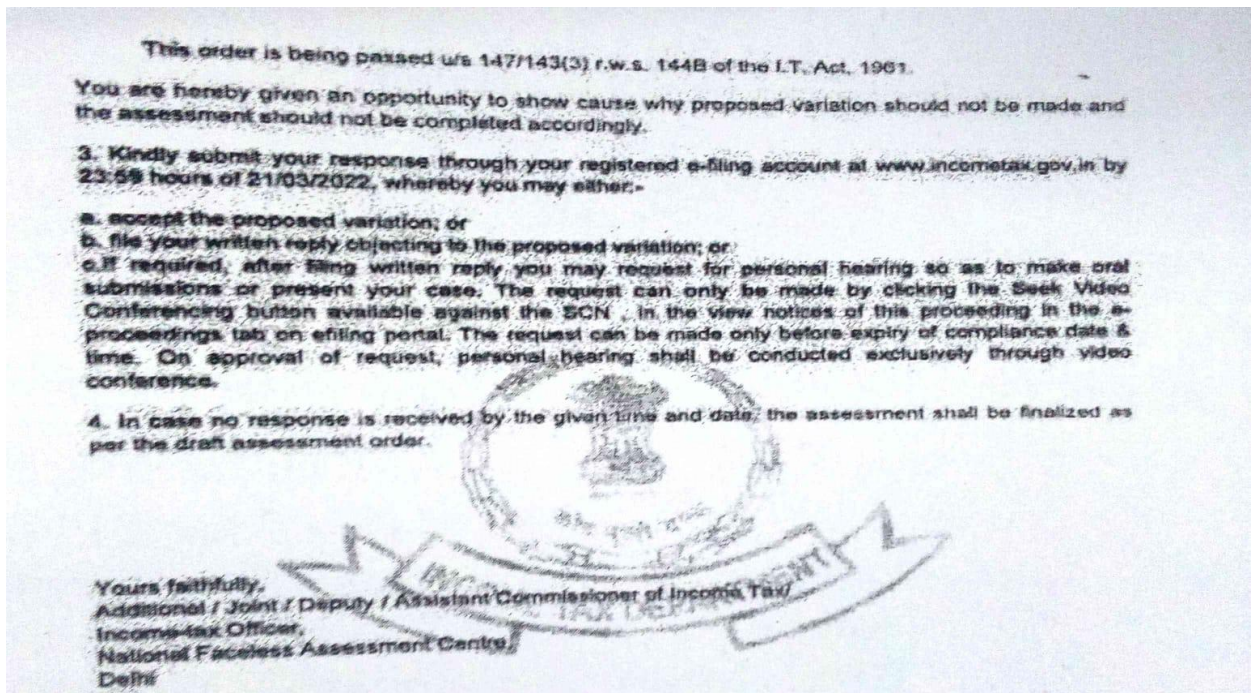
4. It is a part of record that during the course of assessment proceedings sufficient opportunity and reasonable time was granted to the assessee but he did not bother to comply with the notices and to provide the vital information/documents so as to enable the assessing officer to complete the assessment. Needless to mention here that when a statutory notice has been issued, it is the duty of the assessee to respond and to furnish the required information. Further, while scrutinizing the case it would be of great importance to have an idea about assessee's intention behind the non-co-operation. The immediate idea that can be formed is that the assessee might have taken it beneficial to evade the proceedings rather than to co-operate in furnishing the information to avoid further investigation in the matter. Therefore, in the absence of relevant reply from the assessee, the matter is being decided as per the record available.

5. After pursuing the reply of the assessee and the return of the income filed u/s 148 that the assessee is driving income from the business and income from other sources. After considering the reply of the assessee, the reply is not found tenable because the assessee has not produced proper books of account coupled with non-production of documentary evidence of contract business. Hence, cash deposited in Bank of Baroda bearing a/c no. 39920100006975 amounting to Rs. 16,96,682/- and in State Bank of India bearing A/c No. 31561107456 amounting to Rs. 4,09,500/- totaling to Rs. 21,06,182/- is treated as unexplained credit entries in book of the assessee and accordingly, addition of Rs. 21,06,182/- is proposed to be added back to the income of the assessee u/s 69A r.w.s. 115BBE of the Income Tax Act, 1961 Penalty proceedings u/s 271(1)(c) of the Income tax act, 1961 for inaccurate particulars of the income are initiated separately.

Returned Income	Rs. 2,25,800/-
Add:- as per para 5	Rs. 21,06,182/-
Assessed Income	Rs. 23,31,982/-

Issue Penalty notice u/s 271(1)(c) and 271(1)(b) of the Income Tax Act, 1961.

Assessed issue requisite documents to the assessee.



*012. Considering the above facts and legal position, we are of the considered opinion that the order passed by the NFAC, Delhi is without jurisdiction and is hereby quashed. The appeal of the assessee is allowed.*

*3. It was the submission that the assessment year in the impugned appeal is liable to be quashed as the assessment order has been passed by the NFAC on 28.03.2022.*

*4. In reply, ld. Sr. DR vehemently supported the orders of the ld. AO and ld.CIT(A). It was the submission that there are no other decisions on this issue and, therefore, the appeal may be heard on merits.*

*5. We have considered the rival submissions. Here in the appeal on merits would have no implication, insofar as on the technicality itself the issue has been held against the revenue by the coordinate bench of the Tribunal in the case of Md. Mahimud SK, referred to supra, wherein one of us is a party to the order. This being so, the decision of the coordinate bench of the Tribunal in the case of Md. Mahimud SK, referred to supra, as it is noticed that the assessment order has been passed by the NFAC on 28.03.2022 being prior to the date of notification is bad in law and consequently the same stands quashed.”*

5. It was the submission that the assessment orders are liable to be quashed as the same is without jurisdiction.

6. In reply, the ld. Sr. DR vehemently supported the order of the Assessing Officer and ld. CIT(A).

7. We have considered the rival submissions. A perusal of the facts in the present case clearly shows that the assessment orders have been passed by NFAC on 08.03.2022 in both cases. The notices have been issued giving powers to NFAC to pass assessment orders on 29.03.2022. Consequently, the NFAC did not have the power to pass the assessment orders till 29.03.2022. The impugned assessment orders have been passed by the NFAC in both cases before the effective date i.e. 29.03.2022. This being so, the impugned assessment orders stand quashed.

8. In the result, the appeals of the assessee stand allowed.

Order pronounced in the open court on 07/04/2026.

Sd/-  
**[MANUNATHAN G]**  
लेखा सदस्य/**Accountant Member**

Sd/-  
**[GEORGE MATHAN]**  
न्यायिक सदस्य/**Judicial Member**

Dated: 07/04/2026  
RS

*Copy of the order forwarded to:*

1. Appellant -
2. Respondent –
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches