

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition No. 11787/2024

Sharda Devi Chhajer W/o Shri Jatan Lal Chhajer, Aged About 57 Years, Chhajer Niwas, Suswani S.t.d/ P.c.o. Ke Pass, New Lane Gangashahar, Bikaner - 334001 (Rajasthan).

-----Petitioner

Versus

1. The Income Tax Officer, Ward 1(1), Income Tax Office, Rani Bazar, Bikaner - 334001 (Rajasthan).
2. Principal Commissioner Of Income Tax-Z, Aaykar Bhawan, Paota C Road, Jodhpur - 342010 (Rajasthan).

-----Respondents

Connected With

D.B. Civil Writ Petition No. 13309/2022

Arun Choudhary S/o Shri Paras Mal Choudhary, Aged About 46 Years, Resident Of A-228, R.k. Colony, Bhilwara 311001 (Rajasthan).

-----Petitioner

Versus

1. Union Of India, Through Secretary (Revenue), Ministry Of Finance, North Block, New Delhi.
2. Principal Chief Commissioner Of Income Tax, Jaipur Central Revenue Building, B.d. Road, Jaipur.
3. Income Tax Officer, Ward No. 1, Bhilwara (Raj.).
4. Central Board Of Direct Taxes, Through Chairman, Department Of Revenue, Ministry Of Finance, North Block, New Delhi.

-----Respondents

D.B. Civil Writ Petition No. 3381/2023

Vaishali Dang D/o Chander Mohan Vohra, Aged About 48 Years, Resident Govardhan Vilas, Balicha Udaipur, Rajasthan, India, 313001

-----Petitioner

Versus

1. Income Tax Officer Ward 2 (1), Udaipur, And Another Having Its Address At Aaykar Bhawan, Udaipur, Rajast, Subcity Centre, Savina, Udaipur, ,rajasthan, 313001
2. Central Board Of Direct Taxes, Department Of Revenue, Ministry Of Finance, Government Of India, Having Its Address At North Block, New Delhi, Through Its Chairman.



-----Respondents

D.B. Civil Writ Petition No. 6421/2023

Bhavana Talwar W/o Deepak Mendiratta, Aged About 38 Years,
Plot No -14 Hare Krishna Residency, Kesar Nagar Sukhiya,
Sanganer, Jaipur 302029, Rajasthan.

-----Petitioner

Versus

Office Of The Income Tax Officer, Through Income Tax Officer, Ito
Ward, Suratgarh Having An Office At Near Main Post Office,
Bikaner Road, Suratgarh, District Ganganagar Rajasthan, Email
Suratgarh@incometax.gov.in

-----Respondent

D.B. Civil Writ Petition No. 6456/2023

Khemani Metal Industries Private Limited, Through Its Director,
Shrikant Khemani S/o Shri Sunil Khemani, Aged 30 Years, A-46-
A, M.i. Area, Phase-Ii, Basni, Jodhpur - 342005 (Rajasthan).

-----Petitioner

Versus

1. Assistant Commissioner Of Income Tax, Circle-I, Income
Tax Department, Aayakar Bhawan, Paota C Road,
Jodhpur.
2. Principal Chief Commissioner Of Income Tax, Rajasthan,
New Central Revenue Building, Bhagwan Dass Road,
Jaipur.

-----Respondents

D.B. Civil Writ Petition No. 6705/2023

M/s Kushal Metals, Having Office At 14B(1), Heavy Industrial
Area, Jodhpur-342003, Rajasthan, India Through Its Partner
Praveen Abani S/o Puran Raj Abani Aged About 58 Years R/o G-
55 Shastri Nagar, Vtc, Jodhpur, Rajasthan 342003

-----Petitioner

Versus

The Income Tax Officer, Ward1(2) Aaykar Bhawan, Paota C Road,
Jodhpur, Rajasthan -342010

-----Respondent

D.B. Civil Writ Petition No. 6752/2023

Suyash Food Specialty Pvt Ltd, Having Its Registered Office At
183B, New Anaj Mandi, Bikaner Through Its Director /
Authorized Signatory Sh. Giriraj Vyas S/o Shri Satya Narayan
Vyas, Aged About 35 Years, R/o Derashriyon Ki Gali, Ward No
33, Bikaner, Rajasthan.



-----Petitioner

Versus

1. Principal Chief Commissioner Of Income Tax Jodhpur, Aayakar Bhawan Paota C Road, Jodhpur
2. Commissioner Of Income Tax Bikaner, Aaykar Bhawan, Rani Bazar, Bikaner
3. Income Tax Officer, Ito Ward 1(1), Aaykar Bhawan, Rani Bazar, Bikaner

-----Respondents

D.B. Civil Writ Petition No. 6852/2023

Agrawal House, Through Its Partner Vishamber Agrawal S/o Shri Shanker Lal Agrawal, Aged About 56 Years, R/o Kushalbagh Palace Banswara (Rajasthan) - 327001.

-----Petitioner

Versus

1. Union Of India, Through Secretary (Revenue), Ministry Of Finance, North Block, New Delhi.
2. Principal Commissioner Of Income Tax, Udaipur, Aayakar Bhawan, Sub City Centre, Savina, Udaipur - 313002.
3. Income Tax Officer, Ito Ward, Banswara.
4. Central Board Of Direct Taxes, Through Chairman, Department Of Revenue, Ministry Of Finance, North Block, New Delhi.

-----Respondents

D.B. Civil Writ Petition No. 6858/2023

Bohra Industries, Through Its Partner, Shanker Lal S/o Late Shri Hem Rajji Aged 74 Years, Bohra Industries, A-46(B), M.i.a., 2Nd Phase, Basni, Jodhpur - 342001, R/o 939, 10Th D Road, Sardarpura, Jodhpur (Rajasthan).

-----Petitioner

Versus

1. Income Tax Officer, Ward1(1), Income Tax Department, Aaykar Bhawan, Paota C Road, Jodhpur.
2. Principal Chief Commissioner Of Income Tax, Rajasthan, New Central Revenue Building, Bhagwan Dass Road, Jaipur.

-----Respondents

D.B. Civil Writ Petition No. 6859/2023

Surana Metals, Through Its Partner, Rakshit Surana S/o Shri Vimal Surana, Aged 31 Years, 7-A (Ii) Heavy Industrial Area, Jodhpur 342 003, Resident Of E-86, Shastri Nagar, Jodhpur (Rajasthan).

-----Petitioner

Versus

1. Income Tax Officer, Ward1(2), Income Tax Department,



Aaykar Bhawan, Paota C Road, Jodhpur.

2. Principal Chief Commissioner Of Income Tax, Rajasthan,
New Central Revenue Building, Bhagwan Dass Road,
Jaipur.

-----Respondents

D.B. Civil Writ Petition No. 6861/2023

Mittal Steel Manufacturing Company (Steel Division), Through Its
Partner, Basant Kumar Mittal S/o Shri Sanwar Mal Mittal, Aged -
58 Years, Plot No. 61-A, Industrial Area, Behind New Power
House, Jodhpur, Resident Of Plot No. 19, New Power House
Road, Masuriya Extension-7, Shastri Nagar, Jodhpur (Rajasthan).

-----Petitioner

Versus

1. Income Tax Officer, Ward-1(1), Income Tax Department,
Aaykar Bhawan Paota C Road, Jodhpur.
2. Principal Chief Commissioner Of Income Tax, Rajasthan,
New Central Revenue Building, Bhagwan Dass Road,
Jaipur.

-----Respondents

D.B. Civil Writ Petition No. 7036/2023

Arihant Industries, Through Its Partner, Mohan Lal Jain S/o Late
Shri Hem Rajji Aged - 68 Years, C-82, M.i.a., 2Nd Phase, Basni,
Jodhpur - 342001, Resident Of 939, 10Th D Road, Sardarpura,
Jodhpur (Rajasthan).

-----Petitioner

Versus

1. Assistant Commissioner Of Income Tax / Deputy
Commissioner Of Income Tax, Circle-1, Income Tax
Department, Aaykar Bhawan, Paota C Road, Jodhpur.
2. Principal Chief Commissioner Of Income Tax, Rajasthan,
New Central Revenue Building, Bhagwan Dass Road,
Jaipur.

-----Respondents

D.B. Civil Writ Petition No. 7077/2023

Shree Ram Steel Industries, Through Its Partner, Ram Ojha S/o
Shri Ram Prasadji Ojha, Aged 37 Years, E-417, Marudhar
Industrial Area, Iind Phase, Basni, Jodhpur 342 001, Resident Of
A-25, Iind Extension, Kamla Nehru Nagar, Defence Colony,
Jodhpur (Rajasthan).

-----Petitioner

Versus

1. Income Tax Officer, Ward-1(2), Income Tax Department,
Aaykar Bhawan, Paota 'c' Road, Jodhpur.
2. Principal Chief Commissioner Of Income Tax, Rajasthan,
New Central Revenue Building, Bhagwan Dass Road,



Jaipur.

----Respondents

D.B. Civil Writ Petition No. 7230/2023

Ashok Jain S/o Shri Sumermal Ji Jain, Aged About 56 Years, A-262, Shastri Nagar, Jodhpur, Rajasthan - 342003

----Petitioner

Versus

The Income Tax Officer, Ward - 1 (1) Aayakar Bhawan, Paota 'c' Road, Jodhpur, Rajasthan, - 342010.

----Respondent

D.B. Civil Writ Petition No. 7245/2023

Jay Kothari S/o S K Kothari, Aged About 42 Years, R/o 1K2, Machala Magra, Patel Circle, Udaipur, (Raj) 313001.

----Petitioner

Versus

Income Tax Officer, Ito, Ward-2(1), Udp, Aaykar Bhawan, Rajast, Subcity Centre, Savina, Udaipur Rajasthan,313001.

----Respondent

D.B. Civil Writ Petition No. 7271/2023

M/s Rounak Steel, Having Office At F-267, Mia Ii Phase Basni, Jodhpur 342005, Rajasthan, India Through Its Partner Sh. Manju Salecha W/o Padam Salecha Aged About 52 Years R/o 80 Roop Nagar, 1St, Near Spicy Kitchen, Pal Road, Jodhpur, Rajasthan 342008

----Petitioner

Versus

The Income Tax Officer, Ward 1(2) Aayakar Bhawan, Paota C Road, Jodhpur, Rajasthan 342010

----Respondent

D.B. Civil Writ Petition No. 7322/2023

Pradeep Kumar Jain S/o Suraj Mal Jain, Aged About 35 Years, R/o 1263-A R.k. Puram Near Dps School, Kota (Raj)

----Petitioner

Versus

Income Tax Officer, Ito Ward-1, Bhl, Kawa Khera Chourha, Shashtri Nagar, Bhilwara, Rajasthan, 311001

----Respondent

D.B. Civil Writ Petition No. 7588/2023

Rajesh Metals, Through Its Partner, Rahul Salecha S/o Shri



Rajesh Salecha, Aged- 39 Years, G- 624, M.i.a. Ii Phase Basni,
Jodhpur - 342 005, Resident Of 42 A,pwd Colony, Jodhpur
(Rajsthan).

-----Petitioner

Versus

1. Deputy Commissioner, Central Circle 2, Income Tax Department , Aayakar Bhawan, Paota C Road, Jodhpur.
2. Director General Of Income Tax (Inv), Jaipur Rajasthan, New Central Revenue Building, Bhagwan Dass Road, Jaipur.

-----Respondents

D.B. Civil Writ Petition No. 7769/2023

Parakh Industries, Having Its Registered Address At F-109, M.i.a. Area, Ii Phase, Basni, Jodhpur 342005 Through Its Patner Sh. Rahul Parakh S/o Sh. Manmohan Chand Parakh, Aged About 41 Years, Resident Of 4 Nehru Park, Jodhpur, Rajasthan 342003.

-----Petitioner

Versus

1. Deputy/assistant Commissioner, Circle-1, Income Tax Department, Aaykar Bhawan, Jodhpur (Raj.).
2. Principal Chief Commissioner Of Income Tax, Rajasthan, New Central Revenue Building, Bhagwan Dass Road, Jaipur.

-----Respondents

D.B. Civil Writ Petition No. 8212/2023

M/s Krishna Petroleum, (Disolved) K.no.441/11/1, Piplya Kalan Raipur Road Dist. Pali 306307, Rajasthan Through Its Erstwhile Partner Mohammad Irfan S/o Mohammad Hanif R/o 53, Chippa Mohalla, Beawer - 305901.

-----Petitioner

Versus

The Income Tax Officer, W-1, Pali/, Mandia Road, Pali, Rajasthan-306401 Email - Pali.it01@incometax.gov.in

-----Respondent

D.B. Civil Writ Petition No. 8296/2023

Krishan Kumar S/o Shir Udmi Ram, Aged About 53 Years, Ward No. 2, Village And Post Kalana, Tehsil Bhadra, Distt Hanumangarh - 335501 (Rajasthan).

-----Petitioner

Versus



1. The Income Tax Officer, Ward - Nohar, Income Tax Office, Near Collectorate Chowk, Hanumangarh - 335512 (Rajasthan).
2. Principal Chief Commissioner Of Income Tax, Rajasthan, Central Revenue Building, Statue Circle, Jaipur - 302005 (Rajasthan).

-----Respondents

D.B. Civil Writ Petition No. 8804/2023

Khatri Ceramics Private Limited, 4 Firoz Complex, Near Bus Stand, Beawar Through Its Director Dinesh Kumar S/o Shri Baldev Das, Aged About 50 Years R/o Five Banglow, Adarsh Nagar, Ajmer Road, Beawar, Ajmer, 305901, Rajasthan, India.

-----Petitioner

Versus

1. Income Tax Officer, Ward 1, Pali, Mandia Road, Rajasthan 306401.
2. Central Board Of Direct Taxes, North Block, Secretariat Building, New Delhi, 110001.
3. Income Tax Officer, Ward 1, Income Tax Office, Beawar, Rajasthan, 305901.

-----Respondents

D.B. Civil Writ Petition No. 18361/2023

Aditi Specialty Packaging Pvt Ltd, Through Its Authorized Signatory Hemat Kumar Bohra S/o Late Onkar Lal Bohra, Aged About 65 Years, R/o 220 Main Road, Ashok Nagar, Girwa, Udaipur, Rajasthan - 313001.

-----Petitioner

Versus

1. Union Of India, Through Secretary (Revenue), Ministry Of Finance, North Block, New Delhi.
2. Principal Commission Of Income Tax, Udaipur, Aayakar Bhawan, Sub City Centre, Savina, Udaipur - 313002.
3. Income Tax Officer, Ito Word 2(1), Udaipur.
4. Central Board Of Direct Taxes, Through Chairman, Department Of Revenue, Ministry Of Finance, North Block,



New Delhi

-----Respondents

D.B. Civil Writ Petition No. 832/2025

Shri Gaurav Jain S/o Shri Vinay Kumar Jain, Aged About 44 Years, Resident Of A-46, Shastri Nagar, Jodhpur-342001 (Rajasthan).

-----Petitioner

Versus

1. Assistant / Deputy Commissioner Of Income-Tax, Circle-1, Aayakar Bhawan, Paota-C Road, Jodhpur (Rajasthan)-342010 Jodhpur.dcit1@incometax.gov.in
2. Chief Commissioner Of Income-Tax, 401 And 402, Aayakar Bhawan, Sub City Centre, Savina, Udaipur (Rajasthan). Udaipur.ccit@incometax.gov.in
3. Principal Chief Commissioner Of Income-Tax, Rajasthan New Central Revenue Building, Bhagwan Das Road, Statute Circle, Jaipur / Pr.chief Commissioner Of Income Tax Aayakar Bhawan, Lal Maidan, Paota C Road, Jodhpur Jaipur.pccit@incometax.gov.in

-----Respondents

D.B. Civil Writ Petition No. 7950/2024

Yunus Panwar S/o Late Shri Hakam Ali Panwar, Aged About 46 Years, Behind Suraj Talkies, Rani Bazar, Bikaner - 334001 (Rajasthan).

-----Petitioner

Versus

1. The Income Tax Officer, Ward - 1(1), Income Tax Office, Rani Bazar, Bikaner - 334001 (Rajasthan).
2. Principal Chief Commissioner Of Income Tax, Rajasthan, Central Revenue Building, Statue Circle, Jaipur - 302005 (Rajasthan).

-----Respondents



For Petitioner(s) : Mr. Vikas Balia, Senior Advocate
assisted by Mr. Sachin Saraswat &
Mr. Priyansh Arora.
Mr. Anjay Kothari
Mr. Sharad Kothari
Mr. Prateek Gattani
Mr. Pranjul Mehta
Mr. J.S. Saluja
Mr. Shafi Mohd. through VC.
For Respondent(s) : Mr. K.K. Bissa.

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE MUNNURI LAXMAN

Judgment

Reportable

Reserved on 14/01/2025 / 04/02/2025

Pronounced on 19/03/2025

Per Dr. Pushpendra Singh Bhati, J:

1. The instant Civil Writ Petitions have been preferred claiming,
in sum and substance, the following reliefs:

*"It is, therefore humbly prayed that Your Lordships
may graciously be pleased to accept and allow this writ
petition and by an appropriate writ, order or direction:-*

*i) quash and set aside the notice issued u/s 148 dated
23.03.2024 (Ann.-6) and all other subsequent proceedings
because :-*

*(a) the notice is issued is in contravention of the "e-
Assessment of Income Escaping Assessment Scheme, 2022"
issued by notification dated 29.03.2022 (Ann.7) by the
CBDT, as well as section 144B of the Act of 1961 as such is
out of jurisdiction hence ultra-virus to the notification dated
29.03.2022, and section 144B is arbitrary, unfair and
unreasoned.*



(b) the approval of the specified authority (Ann-5) is also invalid because it is unsigned, hence unjustified, unreasoned, unfair and arbitrary.

(ii) Any other suitable order or direction, which the Hon'ble Court may deem just and proper in the facts and circumstances of the case, may kindly be passed in favor of the Petitioner."



2. The facts of the lead case, in which all submissions have been made combinedly, are that the petitioners filed their Income-Tax Returns. The respondents issued notices under Section 133(6) of the Income Tax Act, 1961 (*hereinafter referred to as 'Act of 1961'*). The said notices culminated into forwarding of the matters under Section 151 of the Act of 1961 for initiation of the proceedings under Section 148 of the Act of 1961. The approvals were granted by the respondents for issuance of notices under Section 148 of the Act of 1961, and thereafter, the notices were issued under the said provision of law.

2.1. The pertinent issue before this Court is that the Central Board of Direct Taxes (*in short, 'CBDT'*), framed a Scheme, namely, "e-Assessment of Income Escaping Assessment Scheme, 2022", vide Notification No.18 of 2022/S.O. 1466(E) dated 29.03.2022 (*hereinafter referred to as 'Scheme of 2022'*). In the said notification, the procedure for assessment, reassessment & re-computation of income under Sections 147 & 148 of the Act of 1961 has been notified.

2.2. The notices which were issued under Sections 147 & 148 of the Act of 1961 were required to comply with the Scheme of 2022



and thus, ought to have been Faceless as enshrined in the CBDT Notification dated 29.03.2022.

2.3. The core question raised by learned counsel for the petitioners is that whether the notices issued by Jurisdictional Assessing Officer (JAO) are to be declared invalid & bad in law, being in contravention of Section 151A of the Act of 1961 read with Notification dated 29.03.2022.

The said notification, for ready reference, reads as under:

"MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)
NOTIFICATION

New Delhi, the 29th March, 2022

S.O. 1466(E).-In exercise of the powers conferred by sub-sections (1) and (2) of section 151A of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby makes the following Scheme, namely:-

1. Short title and commencement.- (1) This Scheme may be called the e-Assessment of Income Escaping Assessment Scheme, 2022.

(2) It shall come into force with effect from the date of its publication in the Official Gazette.

2. Definitions.-(1) In this Scheme, unless the context otherwise requires.-

(a) "Act" means the Income-tax Act, 1961 (43 of 1961);

(b) "automated allocation" means an algorithm for randomised allocations of cases, by using suitable technological tools, including artificial intelligence and machine learning, with a view to optimise the use of resources.

(2) Words and expressions used herein and not defined, but defined in the Act, shall have the meaning respectively assigned to them in the Act.

3. Scope of the Scheme.- For the purpose of this Scheme,-



(a) *assessment, reassessment and recomputation under section 147 of the Act,*

(b) *issuance of notice under section 148 of the Act, shall be through automated allocation, in accordance with risk management strategy formulated by the Board as referred to in section 148 of the Act for issuance of notice, and in a faceless manner, to the extent provided in section 144 B of the Act with reference to making assessment or reassessment of total income or loss of assessee."*



2.4. Learned counsel for the parties conjointly submitted that the aforesaid is the core question in all the matters and is required to be answered by this Court.

2.5. Learned counsel for the petitioners has drawn the attention of this Court to Section 151A of the Act of 1961, which deals with Faceless Assessment of Income Escaping Assessment, is reproduced as hereunder:

"151A. *Faceless assessment of income escaping assessment.*

(1) *The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of assessment, reassessment or re-computation under section 147 or issuance of notice under section 148 or conducting of enquiries or issuance of show-cause notice or passing of order under section 148A or sanction for issue of such notice under section 151, so as to impart greater efficiency, transparency and accountability by—*

(a) *eliminating the interface between the income-tax authority and the assessee or any other person to the extent technologically feasible;*

(b) *optimising utilisation of the resources through economies of scale and functional specialisation;*



(c) introducing a team-based assessment, reassessment, re-computation or issuance or sanction of notice with dynamic jurisdiction.

(2) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (1), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2022.

(3) Every notification issued under sub-section (1) and sub-section (2) shall, as soon as may be after the notification is issued, be laid before each House of Parliament."

2.6. Learned counsel for the parties submitted that Section 151A of the Act of 1961 confers powers on the CBDT to notify Scheme for the purpose of assessment, reassessment & re-computation under section 147 or issuance of notice under Section 148, or conducting of enquiries or issuance of show-cause notice or passing of order under Section 148A or sanction for issuance of such notice under Section 151. These are the parameters which have been raised by the parties herein.

2.7. The above-mentioned Notification dated 29.03.2022 as already been stated, provides procedure for assessment, reassessment & re-computation under Section 147 of the Act of 1961 and issuance of notice under Section 148 through automated allocation in accordance with the Risk Management Strategy formulated by the Board as referred to in Section 148 of the Act of 1961 for issuance of the notice and in a faceless manner, to the extent provided under Section 144B of the Act with reference to



making assessment or reassessment of total income or loss of the Assessee. The impugned notices have been issued by the JAO and not by the National Faceless Assessment Centre (NFAC), which as per the learned counsel for the petitioners, is not in accordance with the Scheme of 2022 read with the Act of 1961.

2.8. Learned counsel for the petitioners further submits that the Scheme of 2022 and the Act of 1961, when read together, makes it clear that there was an intention on the part of the Legislature to eliminate interface between the Income Tax Authority and the Assessee or any other person to the extent technologically feasible, and also to make a faster computation leading to quicker relief to the common Assessee.

2.9. Learned counsel for the petitioners also submitted that the Scheme of 2022 as notified was adhering to all the parameters of Section 151A(3). It was further submitted that issue of concurrent jurisdiction of JAO and the Faceless Assessing Officer (FAO) for issuance of the notices impugned is a pertinent question because allowing issuance of all the notices by the concerned JAOs and making FAOs redundant, would defeat the very purpose and legislative intent underlying Section 151A of the Act of 1961 read with CBDT Notification dated 29.03.2022.

2.10. It was also submitted that the Scheme dated 29.03.2022 clearly provided that the issuance of notice was to take place through the automated allocation, and thus, was carrying a mandate to be followed for making it an algorithm based and randomized allocation with the help of the appropriate technology so as to optimize the use of resources and provide efficient relief



to the Assessee, as far as the law permits. The random allocation as per learned counsel for the petitioners would render the jurisdiction for such notices who would have the allocated jurisdiction and would not prejudice either of the parties as the petitioners herein are not trying to suggest that the powers under Sections 147, 148, 148A & 151 of the Act of 1961 have become redundant, as far as the Faceless is concerned.

2.11. Learned counsel for the petitioners further submitted that the department's discretion has to be minimized and the Act of 1961 and the Scheme of 2022 read in tandem clearly forbids any kind of absolute discretion, as far as JAO is concerned.

2.12. Learned counsel for the petitioners also submitted that the respondents had not followed the procedure, and once the CBDT Notification dated 29.03.2022 read with the legislative intention of Section 151A of the Act of 1961, it was out of the jurisdiction that the JAO has been given the power to issue the notices. It was further submitted that any kind of power to a fixed person well identified by the respondents would render the whole Scheme redundant. It was also submitted that once the jurisdiction has been notified as per the CBDT Scheme in pursuance of Section 151A of the Act of 1961 and the Parliament has approved it, then it was not open for the respondents to have found alternate ways of issuing notices and proceeding with the proceedings under Sections 147, 148, 148A and sanction under Section 151A of the Act of 1961.

2.13. Learned counsel for the petitioners further submitted that the Faceless Scheme as Codified by the Statute under Section



144B of the Act of 1961, and Section 144B is having a **complete mechanism** for Faceless Assessment and all the authorities are bound to follow the same for assessment under Sections 143(3), 144 & 147 of the Act of 1961. Hence, the impugned notices so issued are arbitrary and illegal.

2.14. Learned counsel for the petitioners also submitted that once the authority itself did not have the jurisdiction to issue notices, then all proceedings became illegal and ineffective and thus, the core point raised by the petitioners was that the impugned notices issued under Section 148 of the Act of 1961 are without jurisdiction, in terms of Section 151A of the Act of 1961, as the JAO does not possess any power to issue notice under Sections 147 & 148 of the Act of 1961.

2.15. In support of such submissions, learned counsel for the petitioners placed reliance on the following judgments:

- (a) *Kankanala Ravindra Reddy & Ors. Vs. Income Tax Officer & Ors.*, (2023) 334 CTR (Telangana);
- (b) *Hexaware Technologies Ltd. Vs. Assistant Commissioner of Income Tax*, (2024) 162 taxmann.com 225 (Bombay);
- (c) *Nainraj Enterprises Pvt. Ltd. Vs. The Deputy Commissioner of Income Tax, Circle 4(3)(1), Mumbai & Ors.* (Writ Petition (L) No.16918 of 2024 decided by the Hon'ble High Court of Bombay on 02.07.2024; and
- (d) *SHL (India) (P) Ltd. Vs. Deputy Commissioner of Income Tax & Ors.* (Writ Petition No.11293 of 2021, decided by the Hon'ble High Court of Bombay on 28.07.2021.



(e) *Red Chilli International Sales Vs. Income-tax Officer & Anr.* [SLP(C) No.86/2023, decided by the Hon'ble Supreme Court].

(f) *Divya Capital One Private Limited Vs. Assistant Commissioner of Income-tax* [W.P. (C) No.7406/2022, decided by the Hon'ble Delhi High Court].

(g) *Godrej Sara Lee Limited Vs. Excise Taxation Officer cum Assessing Authority* (Civil Appeal No.5393/2010 decided by the Hon'ble Supreme Court).

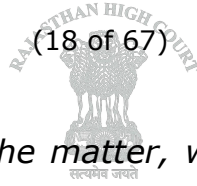
(h) *Harbanslal Sahnia & Ors. Vs. IOCL*, (2003) 2 SCC 107.

Relevant paras of some of the afore-cited judgments, as relied upon, are reproduced as hereunder:

Kankanala Ravindra Reddy & Ors. (Supra):

"34. As regards ITBA step-by-step Document No.2 regarding issuance of notice under section 148 of the Act, relied upon by Revenue, an internal document cannot depart from the explicit statutory provisions of, or supersede the Scheme framed by the Government under section 151A of the Act which Scheme is also placed before both the Houses of Parliament as per Section 151A(3) of the Act. This is specially the case when the document does not even consider or even refer to the Scheme. Further the said document is clearly intended to be a manual/guide as to how to use the Income-tax Department's portal, and does not even claim to be a statement of Revenue's position/stand on the issue in question. Our observations with respect of the guidelines dated 1st August 2022 relied upon by the Revenue will equally be applicable here.

35. Further, in our view, there is no question of concurrent jurisdiction of the JAO and the FAO for issuance of notice under Section 148 of the Act or even for passing assessment or reassessment order. When specific jurisdiction has been assigned to either the JAO or the FAO in the Scheme dated 29th March, 2022, then it is to the exclusion of the other. To



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

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

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



147 of the Act and inapplicable to the issuance of notice under Section 148 of the Act. The Scheme is clearly applicable for issuance of notice under Section 148 of the Act and accordingly, it is only the FAO which can issue the notice under Section 148 of the Act and not the JAO. The argument advanced by the respondent would render clause 3(b) of the Scheme otiose and to be ignored or contravened, as according to respondent, even though the Scheme specifically provides for issuance of notice under Section 148 of the Act in a faceless manner, no notice is required to be issued under section 148 of the Act in a faceless manner. In such a situation, not only clause 3(b) but also the first two lines below clause 3(b) would be otiose, as it deals with the aspect of issuance of notice under section 148 of the Act. Respondents, being an authority subordinate to the CBDT, cannot argue that the Scheme framed by the CBDT, and which has been laid before both House of Parliament is partly otiose and inapplicable. The argument advanced by respondent expressly makes clause 3(b) otiose and impliedly makes the whole Scheme otiose. If clause 3(b) of the Scheme is not applicable, then only clause 3(a) of the Scheme remains. What is covered in clause 3(a) of the Scheme is already provided in Section 144B(1) of the Act, which section provides for faceless assessment, and covers assessment, reassessment or recomputation under section 147 of the Act. Therefore, if Revenue's arguments are to be accepted, there is no purpose of framing a Scheme only for clause 3(a) which is in any event already covered under faceless assessment regime in Section 144B of the Act. The argument of respondent, therefore, renders the whole Scheme redundant. An argument which renders the whole Scheme otiose cannot be accepted as correct interpretation of the Scheme. The phrase "to the extent provided in Section 144B of the Act" in the Scheme is with reference to only making assessment or reassessment or total income or loss of assessee."

Hexaware Technologies Ltd. (Supra):



"32. **As regards issue no.4,** Section 151A reads as under :

Faceless assessment of income escaping assessment.

151A. (1) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of assessment, reassessment or recomputation under section 147 or issuance of notice under section 148 [or conducting of enquiries or issuance of show-cause notice or passing of order under section 148A] or sanction for issue of such notice under section 151, so as to impart greater efficiency, transparency and accountability by—

- (a) eliminating the interface between the income-tax authority and the assessee or any other person to the extent technologically feasible;
- (b) optimising utilisation of the resources through economies of scale and functional specialisation;
- (c) introducing a team-based assessment, reassessment, recomputation or issuance or sanction of notice with dynamic jurisdiction.

(2) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (1), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

Provided that no direction shall be issued after the 31st day of March, 2022.

(3) Every notification issued under sub-section (1) and subsection (2) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

Section 151A of the Act gives the power to the Central Board of Direct Taxes ("CBDT") to notify the Scheme for :

- (i) the purpose of assessment, reassessment or recomputation under Section 147; or
 - (ii) issuance of notice under Section 148; or
 - (iii) conducting of inquiry or issuance of show cause notice or passing of order under Section 148A; or
 - (iv) sanction for issuance of notice under Section 151;
- so as to impart greater efficiency, transparency and accountability by inter alia eliminating the interface between



the Income Tax Authorities and assessee. Sub-section 3 of Section 151A of the Act also provides that every notification issued under sub-section (1) and (2) of Section 151A of the Act shall be laid before each House of Parliament.

In exercise of the powers conferred by sub-sections (1) and (2) of Section 151A of the Act, CBDT issued a notification dated 29th March, 2022 [Notification No.18/2022/F. No.370142/16/2022-TPL and formulated a Scheme. The Scheme provides that -

- (a) the assessment, reassessment or recomputation under Section 147 of the Act,
- (b) and the issuance of notice under Section 148 of the Act, shall be through automated allocation, in accordance with risk management strategy formulated by the Board as referred to in Section 148 of the Act for issuance of notice and in a faceless manner, to the extent provided in Section 144B of the Act with reference to making assessment or reassessment of total income or loss of assessee. The impugned notice dated 27th August, 2022 has been issued by respondent no.1 (JAO) and not by the NFAC, which is not in accordance with the aforesaid Scheme.

33. The guideline dated 1st August 2022 relied upon by the Revenue is not applicable because these guidelines are internal guidelines as is clear from the endorsement on the first page of the guideline – "Confidential For Departmental Circulation Only". The said guidelines are not issued under Section 119 of the Act. Any such guideline issued by the CBDT is not binding on petitioner. Further the said guideline is also not binding on respondent no.1 as they are contrary to the provisions of the Act and the Scheme framed under Section 151A of the Act. The effect of a guideline came up for discussion in *Sofitel Realty LLP vs. Income Tax Officer (TDS)*, wherein this Court has held that the guidelines which are contrary to the provisions of the Act cannot be relied upon by the Revenue to reject an application for compounding filed by an assessee. The Court held that guidelines are subordinate to the principal Act or Rules, it cannot restrict or override the application of specific



provisions enacted by legislature. The guidelines cannot travel beyond the scope of the powers conferred by the Act or the Rules.

The guidelines do not deal with or even refer to the Scheme dated 29th March 2022 framed by the Government under Section 151A of the Act. Section 151A(3) of the Act provides that the Scheme so framed is required to be laid before each House of the Parliament. Therefore, the Scheme dated 29th March 2022 under Section 151A of the Act, which has also been laid before the Parliament, would be binding on the Revenue and the guideline dated 1st August 2022 cannot supersede the Scheme and if it provides anything to the contrary to the said Scheme, then the same is required to be treated as invalid and bad in law.

34. As regards ITBA step-by-step Document No.2 regarding issuance of notice under Section 148 of the Act, relied upon by Revenue, an internal document cannot depart from the explicit statutory provisions of, or supersede the Scheme framed by the Government under Section 151A of the Act which Scheme is also placed before both the Houses of Parliament as per Section 151A(3) of the Act. This is specially the case when the document does not even consider or even refer to the Scheme. Further the said document is clearly intended to be a manual/guide as to how to use the Income Tax Department's portal, and does not even claim to be a statement of the Revenue's position/stand on the issue in question. Our observations with respect to the guidelines dated 1st August 2022 relied upon by the Revenue will equally be applicable here.

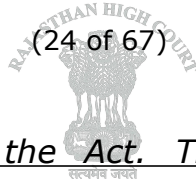
35. Further, in our view, there is no question of concurrent jurisdiction of the JAO and the FAO for issuance of notice under Section 148 of the Act or even for passing assessment or reassessment order. When specific jurisdiction has been assigned to either the JAO or the FAO in the Scheme dated 29th March, 2022, then it is to the exclusion of the other. To take any other view in the matter, would not only result in chaos but also render the whole faceless proceedings



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

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

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



under Section 148 of the Act. The Scheme is clearly applicable for issuance of notice under Section 148 of the Act and accordingly, it is only the FAO which can issue the notice under Section 148 of the Act and not the JAO. The argument advanced by respondent would render clause 3(b) of the Scheme otiose and to be ignored or contravened, as according to respondent, even though the Scheme specifically provides for issuance of notice under Section 148 of the Act in a faceless manner, no notice is required to be issued under Section 148 of the Act in a faceless manner. In such a situation, not only clause 3(b) but also the first two lines below clause 3(b) would be otiose, as it deals with the aspect of issuance of notice under Section 148 of the Act. Respondents, being an authority subordinate to the CBDT, cannot argue that the Scheme framed by the CBDT, and which has been laid before both House of Parliament is partly otiose and inapplicable. The argument advanced by respondent expressly makes clause 3(b) otiose and impliedly makes the whole Scheme otiose. If clause 3(b) of the Scheme is not applicable, then only clause 3(a) of the Scheme remains. What is covered in clause 3(a) of the Scheme is already provided in Section 144B(1) of the Act, which Section provides for faceless assessment, and covers assessment, reassessment or recomputation under Section 147 of the Act. Therefore, if Revenue's arguments are to be accepted, there is no purpose of framing a Scheme only for clause 3(a) which is in any event already covered under faceless assessment regime in Section 144B of the Act. The argument of respondent, therefore, renders the whole Scheme redundant. An argument which renders the whole Scheme otiose cannot be accepted as correct interpretation of the Scheme. The phrase "to the extent provided in Section 144B of the Act" in the Scheme is with reference to only making assessment or reassessment or total income or loss of assessee. Therefore, for the purposes of making assessment or reassessment, the provisions of Section 144B of the Act would be applicable as no such manner for reassessment is separately provided in the Scheme. For issuing notice, the term "to the extent provided in Section



144B of the Act” is not relevant. The Scheme provides that the notice under Section 148 of the Act, shall be issued through automated allocation, in accordance with risk management strategy formulated by the Board as referred to in Section 148 of the Act and in a faceless manner. Therefore, “to the extent provided in Section 144B of the Act” does not go with issuance of notice and is applicable only with reference to assessment or reassessment. The phrase “to the extent provided in Section 144B of the Act” would mean that the restriction provided in Section 144B of the Act, such as keeping the International Tax Jurisdiction or Central Circle Jurisdiction out of the ambit of Section 144B of the Act would also apply under the Scheme. Further the exceptions provided in sub-section (7) and (8) of Section 144B of the Act would also be applicable to the Scheme.

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

38. With respect to the Office Memorandum dated 20th February 2023, the said Office Memorandum merely contains the comments of the Revenue issued with the approval of Member (L&S) CBDT and the said Office Memorandum is not in the nature of a guideline or instruction issued under Section 119 of the Act so as to have any binding effect on the Revenue. Moreover, the arguments advanced by the Revenue on the said Office Memorandum dated 20th February 2023 is clearly contrary to the



provisions of the Act as well as the Scheme dated 29th March 2022 and the same are dealt with as under –

(i) It is erroneously stated in paragraph 3 of the Office Memorandum that "The scheme clearly lays down that the issuance of notice under section 148 of the Act has to be through automation in accordance with the risk management strategy referred to in section 148 of the Act." The issuance of notice is not through automation but through "automated allocation". The term "automated allocation" is defined in clause 2(1)(b) of the said Scheme to mean random allocation of cases to Assessing Officers. Therefore, it is clear that the Assessing Officer are randomly selected to handle a case and it is not merely a case where notice is sought to be issued through automation.

(ii) It is further erroneously stated in paragraph 3 of the Office Memorandum that "To this end, as provided in the section 148 of the Act, the Directorate of Systems randomly selects a number of cases based on the criteria of Risk Management Strategy." The term 'randomly' is further used at numerous other places in the Office Memorandum with respect to selection of cases for consideration/issuance of notice under Section 148 of the Act. Respondent is clearly incorrect in its understanding of the said Scheme as the reference to random in the said Scheme is reference to selection of Assessing Officer at random and not selection of Section 148 cases as random. If the cases for issuance of notice under Section 148 of the Act are selected based on criteria of the risk management strategy, then, obviously, the same are not randomly selected. The term 'randomly' by definition mean something which is chosen by chance rather than according to a plan. Therefore, if the cases are chosen based on risk management strategy, they certainly cannot be said to be random. The Computer/System cannot select cases on random but selection can be based on certain well defined criteria. Hence, the argument of respondents is clearly unsustainable. If the case of respondent is that the applicability of Section 148 of the Act is on random basis, then the provision of Section 148 itself would become contrary to Article 14 of the Constitution of India as being



arbitrary and unreasonable. Randomly selecting cases for reopening without there being any basis or criteria would mean that the section is applied by the Revenue in an arbitrary and unreasonable manner. The word 'random' is used in clause 2(1)(b) of the said Scheme in the definition of "automated allocation". "Automated allocation" is defined in the said clause to mean "an algorithm for randomised allocation of cases.....". The term 'random', in our view, has been used in the context of assigning the case to a random Assessing Officer, i.e., an Assessing Officer would be randomly chosen by the system to handle a particular case. The term 'random' is not used for selection of case for issuance of notice under Section 148 as has been alleged by the Revenue in the Office Memorandum. Further, in paragraph 3.2 of the Office Memorandum, with respect to the reassessment proceedings, the reference to 'random allocation' has correctly been made as random allocation of cases to the Assessment Units by the National Faceless Assessment Centre. When random allocation is with reference to officer for reassessment then the same would equally apply for issuance of notice under Section 148 of the Act.

(iii) The conclusion at the bottom of page 2 in paragraph 3 of the Office Memorandum that "Therefore, as provided in the scheme the notice under section 148 of the Act is issued on automated allocation of cases to the Assessing Officer based on the risk management criteria" is also factually incorrect and on the basis of incorrect interpretation of the Scheme. Clause 2(1)(b) of the Scheme defined 'automated allocation' to mean 'an algorithm for randomised allocation of cases by using suitable technological tools, including artificial intelligence and machine learning, with a view to optimise the use of resources'. The said definition does not provide that the automated allocation of case to the Assessing Officer is based on the risk management criteria. The reference to risk management criteria in clause 3 of the Scheme is to the effect that the notice under Section 148 of the Act should be in accordance with the risk management strategy formulated by the board which is in accordance with



Explanation 1 to Section 148 of the Act. In our view, the Revenue is misinterpreting the Scheme, perhaps to cover its deficiency of not following the Scheme for issuing notice under Section 148 of the Act.

(iv) In paragraph 3.1 of the Office Memorandum, it is stated that the case is selected prior to issuance of notice are decided on the basis of an algorithm as per risk management strategy and are, therefore, randomly selected. It is further stated that these cases are 'flagged' to the JAO by the Directorate of Systems and the JAO does not have any control over the process. It is further stated that the JAO has no way of predicting or determining beforehand whether the case will be 'flagged' by the system. The contention of the Revenue is that only cases which are 'flagged' by the system as per the risk management strategy formulated by CBDT can be considered by the Assessing Officer for reopening, however, in clause (i) in the Explanation 1 to Section 148 of the Act, the term "flagged" has been deleted by the Finance Act, 2022, with effect from 1st April 2022. In any case, whether only cases which are flagged can be reopened or not is not relevant to decide the scope of the Scheme framed under Section 151A of the Act, which required the notice under Section 148 of the Act to be issued on the basis of random allocation and in a faceless manner.

(v) The Revenue has wrongly contended in paragraph 3.1 of the Office Memorandum that "Therefore, whether JAO or NFAC should issue such notice is decided by administration keeping in mind the end result of natural justice to the assesseees as well as completion of required procedure in a reasonable time." In our opinion, there is no such power given to the administration under either Section 151A of the Act or under the said Scheme. The Scheme is clear and categorical that notice under Section 148 of the Act shall be issued through automated allocation and in a faceless manner. Therefore, the argument of the Revenue is clearly contrary to the provisions of the Scheme.

(vi) In paragraph 3.3 of the Office Memorandum, it is again erroneously stated that "Here it is pertinent to note that the



said notification does not state whether the notices to be issued by the NFAC or the Jurisdictional Assessing Officer ("JAO").....It states that issuance of notice under section 148 of the Act shall be through automated allocation in accordance with the risk management strategy and that the assessment shall be in faceless manner to the extent provided in section 144B of the Act." The Scheme is categoric as stated aforesaid that the notice under Section 148 of the Act shall be issued through automated allocation and in a faceless manner. The Scheme clearly provides that the notice under Section 148 of the Act is required to be issued by NFAC and not the JAO. Further, unlike as canvassed by Revenue that only the assessment shall be in faceless manner, the Scheme is very clear that both the issuance of notice and assessment shall be in faceless manner

(vii) In paragraph 5 of the Office Memorandum, a completely unsustainable and illogical submission has been made that Section 151A of the Act takes into account that procedures may be modified under the Act or laid out taking into account the technological feasibility at the time. Reading the said Scheme along with Section 151A of the Act makes it clear that neither the Section or the Scheme speak about the detailed specifics of the procedure to be followed therein. This argument of the Revenue is clearly contrary to the Scheme as the Scheme is very specific to provide, *inter alia*, that the issuance of notice under Section 148 of the Act shall be through automated location and in a faceless manner. Therefore, the Scheme is mandatory and provides the specification as to how the notice has to be issued. Further the argument of the Revenue that Section 151A of the Act takes into account that the procedure may be modified under the Act is without appreciating that if the procedure is required to be modified then the same would require modification of the notified Scheme. It is not open to the Revenue to refuse to follow the Scheme as the Scheme is clearly mandatory and is required to be followed by all Assessing Officers.



(viii) The argument of the Revenue in paragraph 5.1 of the Office Memorandum that the Section and Scheme have left it to the administration to device and modify procedures with time while remaining confined to the principles laid down in the said Section and Scheme, is without appreciating that one of the main principles laid down in the Scheme is that the notice under Section 148 of the Act is required to be issued through automated allocation and in a faceless manner. There is no leeway given on the said aspect and, therefore, there is no question of the administration to device and modify procedures with respect to the issuance of notice.

39. With reference to the decision of the Hon'ble Calcutta High Court in Triton Overseas Private Limited (Supra), the Hon'ble Calcutta High Court has passed the order without considering the Scheme dated 29th March 2022 as the said Scheme is not referred to in the order. Therefore, the said judgment cannot be treated as a precedent or relied upon to decide the jurisdiction of the Assessing Officer to issue notice under Section 148 of the Act. The Hon'ble Calcutta High Court has referred to an Office Memorandum dated 20th February 2023 being F No.370153/7/2023 TPL which has been dealt with above. Therefore, no reliance can be placed on the said Office Memorandum to justify that the JAO has jurisdiction to issue notice under Section 148 of the Act. Further the Hon'ble Telangana High Court in the case of Kankanala Ravindra Reddy vs. Income Tax Officer has held that in view of the provisions of Section 151A of the Act read with the Scheme dated 29th March 2022 the notices issued by the JAOs are invalid and bad in law. We are also of the same view."

SHL India (P) Ltd. (Supra):

"25. In our view, the following principles emerge from the above discussion :-

(i) that the procedure prescribed under Section 144C of the IT Act is a mandatory procedure and not directory.



(ii) failure to follow the procedure under Section 144C(1) would be a jurisdictional error and not merely procedural error or irregularity.

(iii) therefore, Section 292B of the IT Act cannot save an order passed in breach of the provisions of Section 144C(1), the same being an incurable illegality.

26. It is important to note that Section 144C(1) is a non-obstante provision, which requires its compliance irrespective of the other provisions that may be contained in the IT Act. There is no dispute that Petitioner is an eligible assessee and also there is no dispute as to the applicability of Section 144C. It is also not in dispute that the final Assessment Order has been passed without the draft Assessment Order as contemplated under Section 144C (1) of the IT Act. The Assessing Officer ought to have in the first instance forwarded a draft of the proposed order of assessment to Petitioner, as there was a proposed variation prejudicial to the interest of the assessee. This important step has been completely omitted by the Respondent taking away a very necessary right of Petitioner to file objections to the proposed variation with the DRP and the Assessing Officer, which in our view, strikes to the root of the procedure contemplated by Section 144C.

27. Applying the aforesaid principles to the facts of this case, we are of the view that the failure on the part of the Assessing Officer to follow the procedure under Section 144C(1) is not a merely procedural or inadvertent error, but a breach of a mandatory provision. We are also not impressed with the arguments of the Revenue that the Assessing Officer was under pressure of two charges, as there were timelines to adhere to, since the said timelines from time to time have been extended, the most recent one being to 30th September, 2021. The Revenue ought to have appreciated that the requirement under Section 144C(1) to first pass a draft Assessment Order and to provide a copy thereof to the assessee is a mandatory requirement which



gave substantive right to the assessee to object to any variation, that is prejudicial to it. In this case, the order under Section 92CA (3) of the IT Act, proposed to make an adjustment of Rs.107,454,337/- to the ALP considered as Nil by Petitioner and to that extent the said adjustment was evidently prejudicial to the interest of Petitioner. Depriving Petitioner of this valuable right to raise objection before DRP would be denial of substantive rights to the assessee, for which, in our view, the Assessing Officer has no power under the statute, as the provision clearly mandates the Assessing Officer to pass and furnish a draft Assessment Order in the first instance in such a case. The legislature, in our view, has intended to give an important opportunity to Petitioner, who is an eligible assessee, which in our view, has been taken away. In our view, failure to follow the procedure under Section 144C(1) would be a jurisdictional error and not merely procedural error or a mere irregularity. The Assessment Order has not been passed in accordance with the provisions of Section 144C of the IT Act. This is not an issue, which involves a mistake in the said order, but it involves the power of the Assessing Officer to pass the order. By not following the procedure laid down in Section 144C(1) to pass and furnish a draft Assessment Order to Petitioner and directly passing a final Assessment Order and without giving Petitioner an opportunity to raise objections before the DRP, there is a complete contravention of Section 144C, the Assessing Officer having wrongly assumed jurisdiction to straight away pass the final order. This is not a mere irregularity but an incurable illegality. Even the provisions of Section 292B of the IT Act would not protect such an order as Section 292B of the IT Act cannot be read to confer jurisdiction on the Assessing Officer, where none exists. The Supreme Court decision in the case of Income-Tax Officer Vs. M. Pirai Choodi; [2011] 334 ITR 262 (SC) referred to in the Revenue's reply is also not applicable to the issue at hand as that was a case where the assessee was not given an opportunity to cross-examine the concerned witness and which assessee also had a statutory appellate remedy which the assessee had failed to avail of,



whereas there is no such right available to Petitioner in this case. In fact, Petitioner has lost a substantive right due to the failure of the Respondents to pass and forward a draft assessment order in the first instance on a variance, prejudicial to the interest of Petitioner. In our view, this is clearly a case of jurisdictional error. The final assessment order passed by the Assessing Officer stands vitiated on account of lack of jurisdiction, which is incurable and deserves to be set aside as void ab initio."



2.16. Learned counsel further drew the attention of this Court towards the order (F.No.187/3/2020-ITA-1) dated 13.08.2020 issued by the Government of India, Ministry of Finance, Department of Revenue (Central Board of Direct Taxes), relevant portion whereof, as relied, is reproduced as hereunder:

"2. In order to ensure that all the assessment orders are passed through the Faceless Assessment Scheme, 2019, the Board in exercise of powers under section 119 of the Income-tax Act, 1961 hereby directs that all the assessment orders shall hereafter be passed by National e-Assessment Centre through the Faceless Assessment Scheme, 2019, except as provided hereunder:

- i) Assessment orders in cases assigned to Central Charges.*
- ii) Assessment orders in cases assigned to International Tax Charges.*

3. Any assessment order which is not in conformity with Para-2 above, shall be treated as non-est and shall be deemed to have never been passed."

2.17. Learned counsel for the parties submitted that all other issues may be left open and this issue may be decided, as it is the primary issue involved herein.

At this juncture, it is also relevant to reproduce Sections 135A, 144B, 147, 148 & 148 of the Act of 1961, as hereunder:

**"Faceless collection of information."**

135A. (1) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of calling for information under section 133, collecting certain information under section 133B, or calling for information by prescribed income-tax authority under section 133C, or exercise of power to inspect register of companies under section 134, or exercise of power of Assessing Officer under section 135 so as to impart greater efficiency, transparency and accountability by—

- (a) eliminating the interface between the income-tax authority and the assessee or any other person to the extent technologically feasible;
- (b) optimising utilisation of the resources through economies of scale and functional specialisation;
- (c) introducing a team-based exercise of powers, including to call for, or collect, or process, or utilise, the information, with dynamic jurisdiction.

(2) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (1), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

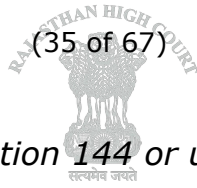
Provided that no direction shall be issued after the 31st day of March, 2022:

Provided further that the Central Government may amend any direction, issued under this sub-section on or before the 31st day of March, 2022, by notification in the Official Gazette.

(3) Every notification issued under sub-section (1) and sub-section (2) shall, as soon as may be after the notification is issued, be laid before each House of Parliament."

"Faceless Assessment."

144B. (1) Notwithstanding anything to the contrary contained in any other provision of this Act, the assessment, reassessment or recomputation under sub-section (3) of



section 143 or under section 144 or under section 147, as the case may be, with respect to the cases referred to in sub-section (2), shall be made in a faceless manner as per the following procedure, namely:—

(i) the National Faceless Assessment Centre shall assign the case selected for the purposes of faceless assessment under this section to a specific assessment unit through an automated allocation system;

(ii) the National Faceless Assessment Centre shall intimate the assessee that assessment in his case shall be completed in accordance with the procedure laid down under this section;

(iii) a notice shall be served on the assessee, through the National Faceless Assessment Centre, under sub-section (2) of section 143 or under sub-section (1) of section 142 and the assessee may file his response to such notice within the date specified therein, to the National Faceless Assessment Centre which shall forward the same to the assessment unit;

(iv) where a case is assigned to the assessment unit, under clause (i), it may make a request through the National Faceless Assessment Centre for—

(a) obtaining such further information, documents or evidence from the assessee or any other person, as it may specify;

(b) conducting of enquiry or verification by verification unit;

(c) seeking technical assistance in respect of determination of arm's length price, valuation of property, withdrawal of registration, approval, exemption or any other technical matter by referring to the technical unit;

(v) where a request under sub-clause (a) of clause (iv) has been initiated by the assessment unit, the National Faceless Assessment Centre shall serve appropriate notice or requisition on the assessee or any other person for obtaining the information, documents or evidence requisitioned by the assessment unit and the assessee or any other person, as the case may be, shall file his response to such notice within the time specified therein or such time as may be extended



on the basis of an application in this regard, to the National Faceless Assessment Centre which shall forward the reply to the assessment unit;

(vi) where a request,—

(a) for conducting of enquiry or verification by the verification unit has been made by the assessment unit under sub-clause (b) of clause (iv), the request shall be assigned by the National Faceless Assessment Centre to a verification unit through an automated allocation system; or

(b) for reference to the technical unit has been made by the assessment unit under sub-clause (c) of clause (iv), the request shall be assigned by the National Faceless Assessment Centre to a technical unit through an automated allocation system;

(vii) the National Faceless Assessment Centre shall send the report received from the verification unit or the technical unit, as the case may be, based on the request referred to in clause (vi) to the concerned assessment unit;

(viii) where the assessee fails to comply with the notice served under clause (v) or notice issued under sub-section (1) of section 142 or the terms of notice issued under sub-section (2) of section 143, the National Faceless Assessment Centre shall intimate such failure to the assessment unit;

(ix) the assessment unit shall serve upon such assessee, as referred to in clause (viii), a notice, through the National Faceless Assessment Centre, under section 144, giving him an opportunity to show-cause on a date and time as specified in such notice as to why the assessment in his case should not be completed to the best of its judgment;

(x) the assessee shall, within the time specified in the notice referred to in clause (ix) or such time as may be extended on the basis of an application in this regard, file his response to the National Faceless Assessment Centre which shall forward the same to the assessment unit;

(xi) where the assessee fails to file response to the notice served under clause (ix) within the time specified therein or within the extended time, if any, the National Faceless



Assessment Centre shall intimate such failure to the assessment unit;

(xii) the assessment unit shall, after taking into account all the relevant material available on the record, prepare, in writing,—

(a) an income or loss determination proposal, where no variation prejudicial to assessee is proposed and send a copy of such income or loss determination proposal to the National Faceless Assessment Centre; or

(b) in any other case, a show cause notice stating the variations prejudicial to the interest of assessee proposed to be made to the income of the assessee and calling upon him to submit as to why the proposed variation should not be made and serve such show cause notice, on the assessee, through the National Faceless Assessment Centre;

(xiii) the assessee shall file his reply to the show cause notice served under sub-clause (b) of clause (xii) on a date and time as specified therein or such time as may be extended on the basis of an application made in this regard, to the National Faceless Assessment Centre, which shall forward the reply to the assessment unit;

(xiv) where the assessee fails to file response to the notice served under sub-clause (b) of clause (xii) within the time specified therein or within the extended time, if any, the National Faceless Assessment Centre shall intimate such failure to the assessment unit;

(xv) the assessment unit shall, after considering the response received under clause (xiii) or after receipt of intimation under clause (xiv), as the case may be, and taking into account all relevant material available on record, prepare an income or loss determination proposal and send the same to the National Faceless Assessment Centre;

(xvi) upon receipt of the income or loss determination proposal, as referred to in sub-clause (a) of clause (xii) or clause (xv), as the case may be, the National Faceless Assessment Centre may, on the basis of guidelines issued by the Board,—



(a) convey to the assessment unit to prepare draft order in accordance with the income or loss determination proposal, which shall thereafter prepare a draft order; or

(b) assign the income or loss determination proposal to a review unit through an automated allocation system, for conducting review of such proposal;

(xvii) the review unit shall conduct review of the income or loss determination proposal assigned to it by the National Faceless Assessment Centre, under sub-clause (b) of clause (xvi), whereupon it shall prepare a review report and send the same to the National Faceless Assessment Centre;

(xviii) the National Faceless Assessment Centre shall, upon receiving the review report under clause (xvii), forward the same to the assessment unit which had proposed the income or loss determination proposal;

(xix) the assessment unit shall, after considering such review report, accept or reject some or all of the modifications proposed therein and after recording reasons in case of rejection of such modifications, prepare a draft order;

(xx) the assessment unit shall send such draft order prepared under sub-clause (a) of clause (xvi) or under clause (xix) to the National Faceless Assessment Centre;

(xxi) in case of an eligible assessee, where there is a proposal to make any variation which is prejudicial to the interest of such assessee, as mentioned in sub-section (1) under section 144C, the National Faceless Assessment Centre shall serve the draft order referred to in clause (xx) on the assessee;

(xxii) in any case other than that referred to in clause (xxi), the National Faceless Assessment Centre shall convey to the assessment unit to pass the final assessment order in accordance with such draft order, which shall thereafter pass the final assessment order and initiate penalty proceedings, if any, and send it to the National Faceless Assessment Centre;

(xxiii) upon receiving the final assessment order as per clause (xxii), the National Faceless Assessment Centre shall serve a copy of such order and notice for initiating penalty



proceedings, if any, on the assessee, along with the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment;

(xxiv) where a draft order is served on the assessee as referred to in clause (xxi), such assessee shall,—

(a) file his acceptance of the variations proposed in such draft order to the National Faceless Assessment Centre; or

(b) file his objections, if any, to such variations, with

(I) the Dispute Resolution Panel, and

(II) the National Faceless Assessment Centre,

within the period specified in sub-section (2) of section 144C;

(xxv) the National Faceless Assessment Centre shall,—

(a) upon receipt of acceptance from the eligible assessee; or

(b) if no objections are received from the eligible assessee, within the period specified in sub-section (2) of section 144C,

intimate the assessment unit to complete the assessment on the basis of the draft order;

(xxvi) the assessment unit shall, upon receipt of intimation under clause (xxv), pass the assessment order, in accordance with the relevant draft order, within the time allowed under sub-section (4) of section 144C and initiate penalty proceedings, if any, and send the order to the National Faceless Assessment Centre;

(xxvii) where the eligible assessee files objections with the Dispute Resolution Panel, under sub-clause (b) of clause (xxiv), the National Faceless Assessment Centre shall send such intimation along with a copy of objections filed to the assessment unit;

(xxviii) the National Faceless Assessment Centre shall, in a case referred to in clause (xxvii), upon receipt of the directions issued by the Dispute Resolution Panel under sub-section (5) of section 144C, forward such directions to the assessment unit;

(xxix) the assessment unit shall, in conformity with the directions issued by the Dispute Resolution Panel under sub-



section (5) of section 144C, complete the assessment within the time allowed in sub-section (13) of section 144C and initiate penalty proceedings, if any, and send a copy of the assessment order to the National Faceless Assessment Centre;

(xxx) the National Faceless Assessment Centre shall, upon receipt of the assessment order referred to in clause (xxvi) or clause (xxix), as the case may be, serve a copy of such order and notice for initiating penalty proceedings, if any, on the assessee, along with the demand notice, specifying the sum payable by, or the amount of refund due to, the assessee on the basis of such assessment;

(xxxi) the National Faceless Assessment Centre shall, after completion of assessment, transfer all the electronic records of the case to the Assessing Officer having jurisdiction over the said case for such action as may be required under the provisions of this Act;

(xxxii) if at any stage of the proceedings before it, the assessment unit having regard to the nature and complexity of the accounts, volume of the accounts, doubts about the correctness of accounts, multiplicity of transactions in the accounts or specialised nature of business activity of the assessee, and the interests of the revenue, is of the opinion that it is necessary to do so, it may, upon recording its reasons in writing, refer the case to the National Faceless Assessment Centre stating that the provisions of sub-section (2A) of section 142 may be invoked and such case shall be dealt with in accordance with the provisions of sub-section (7)

(2) The faceless assessment under sub-section (1) shall be made in respect of such territorial area, or persons or class of persons, or incomes or class of incomes, or cases or class of cases, as may be specified by the Board

(3) The Board may, for the purposes of faceless assessment, set up the following Centre and units and specify their functions and jurisdiction, namely:—



(i) a National Faceless Assessment Centre to facilitate the conduct of faceless assessment proceedings in a centralised manner;

(ii) such assessment units, as it may deem necessary to conduct the faceless assessment, to perform the function of making assessment, which includes identification of points or issues material for the determination of any liability (including refund) under this Act, seeking information or clarification on points or issues so identified, analysis of the material furnished by the assessee or any other person, and such other functions as may be required for the purposes of making faceless assessment, and the term "assessment unit", wherever used in this section, shall refer to an Assessing Officer having powers so assigned by the Board;

(iii) such verification units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of verification, which includes enquiry, cross verification, examination of books of account, examination of witnesses and recording of statements, and such other functions as may be required for the purposes of verification and the term "verification unit", wherever used in this section, shall refer to an Assessing Officer having powers so assigned by the Board:

Provided that the function of verification unit under this section may also be performed by a verification unit located in any other faceless centre set up under the provisions of this Act or under any scheme notified under the provisions of this Act; and the request for verification may also be assigned through the National Faceless Assessment Centre to such verification unit;

(iv) such technical units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of providing technical assistance which includes any assistance or advice on legal, accounting, forensic, information technology, valuation, transfer pricing, data analytics, management or any other technical matter under this Act or an agreement entered into under section 90 or 90A, which may be required in a particular case or a class of



cases, under this section and the term "technical unit", wherever used in this section, shall refer to an Assessing Officer having powers so assigned by the Board;

(v) such review units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of review of the income determination proposal assigned under sub-clause (b) of clause (xvi) of sub-section (1), which includes checking whether the relevant and material evidence has been brought on record, relevant points of fact and law have been duly incorporated, the issues requiring addition or disallowance have been incorporated and such other functions as may be required for the purposes of review and the term "review unit", wherever used in this section, shall refer to an Assessing Officer having powers so assigned by the Board

(4) The assessment unit, verification unit, technical unit and the review unit shall have the following authorities, namely:

—

(i) Additional Commissioner or Additional Director or Joint Commissioner or Joint Director, as the case may be;

(ii) Deputy Commissioner or Deputy Director or Assistant Commissioner or Assistant Director, or Income-tax Officer, as the case may be;

(iii) such other income-tax authority, ministerial staff, executive or consultant, as may be considered necessary by the Board

(5) All communications,—

(i) among the assessment unit, review unit, verification unit or technical unit or with the assessee or any other person with respect to the information or documents or evidence or any other details, as may be necessary for the purposes of making a faceless assessment shall be through the National Faceless Assessment Centre;

(ii) between the National Faceless Assessment Centre and the assessee, or his authorised representative, or any other person shall be exchanged exclusively by electronic mode; and



(iii) between the National Faceless Assessment Centre and various units shall be exchanged exclusively by electronic mode

Provided that the provisions of this sub-section shall not apply to the enquiry or verification conducted by the verification unit in the circumstances as may be specified by the Board in this behalf

(6) For the purposes of faceless assessment—

(i) an electronic record shall be authenticated by—

(a) the National Faceless Assessment Centre by way of an electronic communication;

(b) the assessment unit or verification unit or technical unit or review unit, as the case may be, by affixing digital signature;

(c) assessee or any other person, by affixing his digital signature or under electronic verification code, or by logging into his registered account in the designated portal;

(ii) every notice or order or any other electronic communication shall be delivered to the addressee, being the assessee, by way of—

(a) placing an authenticated copy thereof in the registered account of the assessee; or

(b) sending an authenticated copy thereof to the registered email address of the assessee or his authorised representative; or

(c) uploading an authenticated copy on the Mobile App of the assessee,

and followed by a real time alert;

(iii) every notice or order or any other electronic communication shall be delivered to the addressee, being any other person, by sending an authenticated copy thereof to the registered email address of such person, followed by a real time alert;

(iv) the assessee shall file his response to any notice or order or any other electronic communication, through his registered account, and once an acknowledgement is sent by





the National Faceless Assessment Centre containing the hash result generated upon successful submission of response, the response shall be deemed to be authenticated;

(v) the time and place of dispatch and receipt of electronic record shall be determined in accordance with the provisions of section 13 of the Information Technology Act, 2000 (21 of 2000);

(vi) a person shall not be required to appear either personally or through authorised representative in connection with any proceedings before any unit set up under this section;

(vii) in a case where a variation is proposed in the income or loss determination proposal or the draft order, and an opportunity is provided to the assessee by serving a notice calling upon him to show cause as to why the assessment should not be completed as per such income or loss determination proposal, the assessee or his authorised representative, as the case may be, may request for personal hearing so as to make his oral submissions or present his case before the income-tax authority of the relevant unit;

(viii) where the request for personal hearing has been received, the income-tax authority of relevant unit shall allow such hearing, through National Faceless Assessment Centre, which shall be conducted exclusively through video conferencing or video telephony, including use of any telecommunication application software which supports video conferencing or video telephony, to the extent technologically feasible, in accordance with the procedure laid down by the Board;

(ix) subject to the proviso to sub-section (5), any examination or recording of the statement of the assessee or any other person (other than the statement recorded in the course of survey under section 133A) shall be conducted by an income-tax authority in the relevant unit, exclusively through video conferencing or video telephony, including use of any telecommunication application software which supports video conferencing or video telephony, to the extent technologically feasible, in accordance with the procedure laid down by the Board;



(x) the Board shall establish suitable facilities for video conferencing or video telephony including telecommunication application software which supports video conferencing or video telephony at such locations as may be necessary, so as to ensure that the assessee, or his authorised representative, or any other person is not denied the benefit of faceless assessment merely on the consideration that such assessee or his authorised representative, or any other person does not have access to video conferencing or video telephony at his end;

(xi) the Principal Chief Commissioner or the Principal Director General, as the case may be, in-charge of the National Faceless Assessment Centre shall, with the prior approval of the Board, lay down the standards, procedures and processes for effective functioning of the National Faceless Assessment Centre and the units set up, in an automated and mechanised environment.

(7) (a) The Principal Chief Commissioner or the Principal Director General, as the case may be, in-charge of the National Faceless Assessment Centre shall, in accordance with the procedure laid down by the Board in this regard, if he considers appropriate that the provisions of sub-section (2A) of section 142 may be invoked in the case,—

(i) forward the reference received from an assessment unit under clause (xxxii) of sub-section (1) to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner having jurisdiction over such case, and inform the assessment unit accordingly;

(ii) transfer the case to the Assessing Officer having jurisdiction over such case in accordance with sub-section (8);

(b) where a reference has been received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner under sub-clause (i) of clause (a), he shall direct the Assessing Officer, having jurisdiction over the case, to invoke the provisions of sub-section (2A) of section 142;



(c) where a reference has not been forwarded to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, having jurisdiction over the case, in a case referred to in sub-clause (i) of clause (a), the assessment unit shall proceed to complete the assessment in accordance with the procedure laid down in this section.

(8) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Principal Chief Commissioner or the Principal Director General, as the case may be, in-charge of National Faceless Assessment Centre may, at any stage of the assessment, if considered necessary, transfer the case to the Assessing Officer having jurisdiction over such case, with the prior approval of the Board.]

Explanation.—In this section, unless the context otherwise requires—

(c) "automated allocation system" means an algorithm for randomised allocation of cases, by using suitable technological tools, including artificial intelligence and machine learning, with a view to optimise the use of resources;

(d) "automated examination tool" means an algorithm for standardised examination of draft orders, by using suitable technological tools, including artificial intelligence and machine learning, with a view to reduce the scope of discretion;

(k) "faceless assessment" means the assessment proceedings conducted electronically in 'e-Proceeding' facility through assessee's registered account in designated portal;

(m) "eligible assessee" shall have the same meaning as assigned to in clause (b) of sub-section (15) of section 144C;

"Income escaping assessment.

147. If any income chargeable to tax, in the case of an assessee, has escaped assessment for any assessment year, the Assessing Officer may, subject to the provisions of sections 148 to 153, assess or reassess such income or recompute the loss or the depreciation allowance or any other allowance or deduction for such assessment year (hereafter in this section and in





sections 148 to 153 referred to as the relevant assessment year).

Provided that where an assessment under sub-section (3) of section 143 or the section has been made for the relevant assessment year, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any income chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under section 139 or in response to a notice issued under sub-section (1) of section 142 or section 148 or to disclose fully and truly all material facts necessary for his assessment, for that assessment year:

Provided further that nothing contained in the first proviso shall apply in a case where any income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment for any assessment year.

Provided also that the Assessing Officer may assess or reassess such income, other than the income involving matters which are the subject matters of any appeal, reference or revision, which is chargeable to tax and has escaped assessment."

148. Issue of notice where income has escaped assessment.

Before making the assessment, reassessment or recomputation under section 147, and subject to the provisions of section 148A, the Assessing Officer shall serve on the assessee a notice, along with a copy of the order passed, if required, under clause (d) of section 148A, requiring him to furnish within such period, as may be specified in such notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139:



Provided that no notice under this section shall be issued unless there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year and the Assessing Officer has obtained prior approval of the specified authority to issue such notice:

Provided further that no such approval shall be required where the Assessing Officer, with the prior approval of the specified authority, has passed an order under clause (d) of section 148A to the effect that it is a fit case to issue a notice under this section.

Explanation 1.—For the purposes of this section and section 148A, the information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment means,—

(i) any information in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board from time to time;

(ii) any audit objection to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act; or

(iii) any information received under an agreement referred to in section 90 or section 90A of the Act; or

(iv) any information made available to the Assessing Officer under the scheme notified under section 135A; or

(v) any information which requires action in consequence of the order of a Tribunal or a Court.

Explanation 2.—For the purposes of this section, where,—(i) a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A, on or after the 1st day of April, 2021, in the case of the assessee; or

(ii) a survey is conducted under section 133A, other than under sub-section (2A) of that section, on or after the 1st day of April, 2021, in the case of the assessee; or



(iii) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner, that any money, bullion, jewellery or other valuable article or thing, seized or requisitioned under section 132 or section 132A in case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or

(iv) the Assessing Officer is satisfied, with the prior approval of Principal Commissioner or Commissioner, that any books of account or documents, seized or requisitioned under section 132 or section 132A in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee,

the Assessing Officer shall be deemed to have information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee where the search is initiated or books of account, other documents or any assets are requisitioned or survey is conducted in the case of the assessee or money, bullion, jewellery or other valuable article or thing or books of account or documents are seized or requisitioned in case of any other person.

Explanation 3.—For the purposes of this section, specified authority means the specified authority referred to in section 151.”

"Procedure before issuance of notice under section 148:

148A. (1) Where the Assessing Officer has information which suggests that income chargeable to tax has escaped assessment in the case of an assessee for the relevant assessment year, he shall, before issuing any notice under section 148 provide an opportunity of being heard to such assessee by serving upon him a notice to show cause as to why a notice under section 148 should not be issued in his case and such notice to show cause shall be accompanied by the information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year.

(2) On receipt of the notice under sub-section (1), the assessee may furnish his reply within such period, as may be specified in the notice.



(3) *The Assessing Officer shall, on the basis of material available on record and taking into account the reply of the assessee furnished under sub-section (2), if any, pass an order with the prior approval of the specified authority determining whether or not it is a fit case to issue notice under section 148.*

(4) *The provisions of this section shall not apply to income chargeable to tax escaping assessment for any assessment year in the case of an assessee where the Assessing Officer has received information under the scheme notified under section 135A.*

Explanation.—For the purposes of this section and section 148, "specified authority" means the specified authority referred to in section 151."

3. Learned counsel for the respondents submitted that sub-sections (7) & (8) of Section 144B of the Act of 1961 authorize the Principal Chief Commissioner or the Principal Director General to transfer cases to the JAOs, when deemed appropriate.

3.1. Learned counsel further submitted that such kind of flexibility has been provided to ensure that wherever the assessment and reassessment procedures requires the JAOs to step in, then he can do so for the betterment of the Revenue procedures.

3.2. Learned counsel also submitted that it would be incorrect to arrive at a conclusion that Section 144B of the Act of 1961 was not the sole component in the direction of the statutory framework as multiple avenues have been kept for proper assessments to be made for the Returns.

3.3. Learned counsel further submitted that the Faceless authorities themselves have concurrent jurisdictions and therefore, the JAO cannot be deprived of his power to conduct the assessment and reassessment of the returns.



3.4. Learned counsel also submitted that though the idea was that the broader framework of the National Faceless Assessment Centre (NFAC) does not conflict with the powers held by the JAO, thus, a complementary set up was required keeping into consideration the highest parameters of accountability and adaptability.

3.5. Learned counsel further submitted that the object of conferring jurisdiction upon the JAO was to have a human supervisory element, which could overcome any kind of deficiencies that would arise out of the faceless assessment.

3.6. Learned counsel also submitted that the JAOs' authority was not merely residual, but it has an active and complementary role in the assessment system, and thus, at every stage, the concurrent jurisdiction would stand for the purpose of jurisdictional assessment.

3.7. Learned counsel further submitted that excluding one against another would not only go against the interest of the Revenue, but it will also create an anomaly which could not be the design of the Act i.e. to achieve fairness and transparency.

3.8. Learned counsel also submitted that there are sufficient prescriptions in the law and the Scheme, which give the JAOs independent powers to enable them to justify the initiation of the reassessment at the threshold.

3.9. Learned counsel further submitted that if the JAO is completely excluded, then the authority to assess and evaluate at the first instance would become weaker.



3.10. Learned counsel also submitted that the powers of the JAOs were retained only with an intention of empowering the Faceless Assessment Scheme and as and when required for the purpose of continuity and accountability, the JAO could wield powers under the various provisions and that would be a way out to reduce the chances of any person escaping assessment or reassessment.

3.11. Learned counsel further submitted that the jurisdictional conflict sought to be projected on behalf of the petitioners in itself is not correct in the eyes of law, because these are concurrent powers which have been carefully laid down for the purpose of providing maximum efficiency to the process of assessment and any kind of interference by this Court in the powers of the JAO would render the assessment process weak, impractical and misaligned.

3.12. Learned counsel also submitted that the JAO retains power for accessing and evaluating the information and to operate in conjunction with the FAO and not for any purpose, which could result into lack of transparency or efficiency.

3.13. Learned counsel further submitted that the Central Government's Scheme for the purpose of supplementing the provisions of assessment or reassessment and sanction was required for the purpose of achieving greater efficiency, transparency and accountability.

3.14. In support of such submissions, learned counsel relied upon the following judgments:

(a) *Mark Studio India Private Limited v. Income Tax Officer, Nungambakkam, Chennai and Anr.*, [W. P. Nos. 25223 and 25227]



of 2023 and W.M.P. Nos. 27545, 27547, 27549 and 27550 of 2024, decided by Madras High Court on 20.12.2024],

(b) *T.K.S. Builders Private Ltd. vs. Income-tax Officer*, [(2024) 167 taxmann.com 759 (Delhi)],

(c) *Himalaya Granites Limited v. Assistant Commissioner of C. Ex.*, [2007 (211) ELT 542 (Mad.)],

(d) *Bavaji and Motibhai v. Inspector of Central Excise and Others*, [(1979 (4) E.L.T. (J 282) (Cal.)],

(e) *Sanghi Steel Udyog Private Limited v. Union of India and Ors.*, [WPO/1549/2023, decided on 13 September, 2023, Calcutta High Court],

(f) *Dhiraj Lakhotia v. Union of India and Anr.*, [W.P. (A). No. 1458 of 2024, Calcutta High Court].

4. Heard learned counsel for the parties as well as perused the record of the case, alongwith the judgments cited at the Bar.

5. The following core point commonly has been raised by the learned counsel for the petitioners:

Whether the impugned notices for assessment and reassessment, having been issued by the JAOs, are valid and good in the eyes of law or if they suffer from fundamental jurisdictional error, when conjointly considered in terms of Sections 151A, 144B, 147 & 148 of the Act of 1961, and the CBDT Scheme notified on 29.03.2022?

6. This Court observes that before delving into the nitty-gritty of the instant case and the challenge in question, it is pertinent to understand the nature, intention and the mechanics underlying the Faceless Regime and how it has contributed to the paradigm shift in administration of the Income-tax law in India.



6.1. The Government of India launched '**Transforming taxation – Honouring the honest**' platform, on On 13 August 2020. The same was done with an objective of simplifying India's tax system and increasing trust of taxpayers.

6.1.1. Pursuant to the same, the Government introduced a 'faceless' mechanism for Income-tax proceedings and the same was done with an objective to reduce the physical interface between the Income-tax Department and taxpayers, introduce team-based assessment, enable optimal utilisation of resources (and thereby reduce arbitrary exercise of discretion by tax officers in making assessments and appeals).

6.1.2. Technology is at the very heart of the faceless mechanism and the main intention of the Income tax Department is to harness the power of data through collation of information from various sources, along with the use of various data analytics techniques. This is expected to ensure effective and efficient collection of tax revenues by the Income-tax Department.

6.1.3. The Taxpayers' Charter' introduced in the Income-tax Act, 1961 (the Act) makes a commitment whereby the Income Tax Department will ensure fair administration of taxation for taxpayers.

6.2. The introduction of the faceless regime is a landmark moment in the tax administration's history in India. The e-governance scheme of Government of India And the Income-tax-related initiatives can be traced back to 2006, when the e-filing of Income-tax returns was enabled by the department.



6.3. A short journey through the key e-Governance initiatives introduced by the Government of India are as follows:

Year	Initiative
2006	Launch of a project for e-filing returns
2007	Mandatory e-filing of returns for corporate taxpayers and taxpayers who are required to have their accounts audited under Section 44AB of the Act, and thereafter, for other taxpayers at different points in time
2009	Establishment of the Centralised Processing Centre Online (CPC) and viewing of Form 26AS
2015	Online verification of tax returns through Aadhaar and Electronic Verification Code
2017	CBDT launched an e-Proceeding facility to enable electronic tax assessments.

6.4. In 2015, the Central Board of Direct Taxes (CBDT), promoted the paperless environment for tax assessment proceedings and launched an optional facility for designated taxpayers in certain



cities, whereby they could respond questionnaires and notices via emails.

6.5. Whereafter, in April 2017 the CBDT launched an e-Proceeding facility to enable electronic tax assessments. By way of this facility, a tax officer or assessing officer could communicate with a taxpayer through the e-Filing portal and could upload a notice on the income tax e-filing portal. It also in the same proceedings gave an option to the tax-payer to respond to it. The same lead to the expansion of electronic assessment proceedings and thereby, eliminated the need for taxpayers to send their responses either via email or as hard copies. The CBDT, in August 2018, made it mandatory to conduct all assessments framed in the financial year 2018-19, through the e-Proceeding facility, subject to certain exceptional circumstances.

6.6. The Hon'ble Finance Minister introduced the '*faceless assessment procedure*' in his Budget Speech in 2018, (earlier called, *e-Assessment scheme*). The objectives of the scheme and the intention expounded in the memorandum to the Finance Bill, 2018, viz., "*the objective of reducing the interface between the department and the taxpayers*" closely resembles the faceless assessment scheme.

6.7. Subsequently, the Finance Act, 2018 amended the Income-tax law (Amendment to Section 143(3A) and insertion of sub-Section (3B) and (3C)), to achieve the aforesaid objective of the Central Government and to empower the government to prescribe a new scheme for electronic and faceless tax assessments and add significantly to its efficiency, transparency and accountability.



6.8. Accordingly, the e-Assessment scheme was notified on 12 September 2019, vide SO 3264 (Notification No. 61/2019 (F No. 370149/154/2019-TPL] dated 12 September 2019) and SO 3265 (Notification No. 62/2019 (F No. 370149/154/2019-TPL)] dated 12 September 2019) through which various assessment procedures mandated under the Act were automated.

6.9. Hon'ble Prime Minister, on **13th August, 2020**, introduced a revamped scheme for tax assessments. Accordingly, the e-Assessment scheme was renamed as the faceless assessment scheme. Notifications were also issued i.e., No. 2745(E) (Notification No. 60/2020 (F No. 370149/154/2019-TPL)] dated 13.08.2020) and No. 2746(E) (Notification No. 61/2020 (F No. 370149/154/2019-TPL)] dated 13 August 2020) with the details of the faceless scheme. With this scheme, the Government introduced 'Faceless Appeal' and the 'Taxpayers' Charter'.

6.10. Under the Faceless Assessment Scheme, all cases for tax assessments, other than those allotted to central and international tax charges, are selected by an automated allocation system through the use of artificial intelligence (AI) and machine learning tools. The same suggests a 360-degree profiling of taxpayers, and aims to enable more focused and meaningful assessments than in the past. This system, comprises of a team-based assessment mechanism having multiple layers of units formed by the CBDT. The same has also been extended to CIT (A) proceedings. This has made appeal proceedings being governed in a similar manner as faceless assessments. It involves the concept of dynamic



jurisdictions to increase the objectivity of appeal orders and instil transparency and efficiency in such proceedings.

6.11. The Taxpayers' Charter seeks to strengthen the relationship between the Income-tax Department and the taxpayer in the new regime. Its objective is to inculcate a trust-based relationship between the two, and enhance the department's service delivery system's efficiency.

6.12. The Government by way the aforesaid aims to reduce the trust deficit between taxpayers and the Income-tax Department; introduce policy-driven governance minimising grey areas to rule out alleged discretion in administrative processes and by putting in place unambiguous policies; limit human interface; reduce litigation related to tax; integrate the elements of 'efficiency, integrity and sensitivity' in the governance system; improve ranking of India on the 'Ease of doing business' rankings.

6.13. The faceless assessment scheme was codified in Income-tax Law in India (Section 144B of the Act) and was thereby introduced vide 'The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020', effective 1 April 2021.

6.14. Before the introduction of the faceless regime, the notices were issued by the JAO, and the same led to multiple issues, such as, the system often entailed multiple physical meetings between the taxpayer and Income-tax Department officials, leading to long waiting times for the taxpayer; issuance of notices, through the system and manually made record-keeping difficult and often led to disputes between the taxpayer and the Department; the discretionary power vested with tax officers led to a subjective



approach and varying interpretations; large percentage of Department personnel were involved only in the tax assessment process.

6.15. In order to overcome these limitations, it was necessary to transform the assessment mechanism to enable transparency, efficiency, accountability and optimal utilisation of technology and thus, the faceless scheme was introduced. The GoI has created a parallel jurisdiction for assessment proceedings by vesting the power to conduct assessments with the National Faceless Assessment Centre (NFAC) and transferred all existing assessment proceedings to it.

6.16. Under the Faceless Assessment, a tax officer does not have any discretion in selection of cases, which are completely automated, a taxpayer has to authenticate submissions, and in the case of a corporate entity, this can be done by the authorised person assigned to sign a tax return. Further, every submission filed by a taxpayer under the faceless regime is authorised by a digital signature certificate or by using an electronic verification code. Furthermore, a taxpayer's case is randomly allocated to Assessment Units. All notices are issued electronically with a valid Document Identification Number. The scheme will save time for taxpayers and their representatives by freeing them from multiple visits to a tax office.

6.17. With introduction of faceless assessments, India has become a pioneer in embracing technology and AI in tax administration, to enhance transparency, accountability and efficiency in the system.



6.18. This Court observes that the case laws relied by the learned counsel for the respondents are a form of interpretation, wherein the Courts have adopted a literal interpretation of the relevant provisions in question thereby giving way to Jurisdictional Assessing Officer as well to issue the notice. However, the same when interpreted in the cases relied upon by the counsel on behalf of the petitioners, does not work in tandem with the broader legislative purpose and the pragmatic approach adopted vis-a-vis the taxation scheme in India. Thus, this Court does not fall in agreement with the judgments relied upon by the respondents as the same shall not serve the broader purpose of the taxation scheme which emanates out of the statutory requirement under Sections 144B & 151A of the Act of 1961 and the CBDT Circular conjointly read with other steps taken by the Union of India at the highest level for transforming the taxation regime through technology.

7. Article 265 of the Constitution of India, prohibits the State from extracting tax from the citizens without authority of law. It is axiomatic that taxation statute has to be interpreted strictly because State cannot at its whims and fancies burden the citizens without authority of law, as has been held in ***Commissioner of Customs (Import), Mumbai Vs. M/s. Dilip Kumar and Company & Ors., 2018 (361) E.L.T. 577 (SC)***.

7.1. In a taxing statute, one has to look at the text as it is. There is no equity in taxation law. There is no intendment and presumption as to tax. Nothing is to be read in and nothing is to be implied.



7.2. The basic principle of charge under Tax Statutes is, *"No tax can be imposed on the subject without words in the Act clearly showing an intention to lay a burden upon him."*

7.3. Burden of proof of bringing someone under a charge is on the revenue and that of bringing assessee under exemption/deduction is on the assessee itself.

7.4. If an interpretation of a fiscal enactment is open to doubt and two views are reasonably possible then the one more beneficial or favourable to the assessee should be adopted.

7.5. Provisions related to machinery of assessment or collection should be construed to make it workable and effectuate the levy and advance the objection of provisions.

7.6. Construction of machinery provisions that disables the taxing machinery, and enables the person to escape taxation shall be avoided.

7.7. In case of provisions creating rights, courts must lean in favour of construction that saves the right instead of the one defeating it.

8. The judgments which were rendered in the case of **Hexaware Technologies Ltd. (supra)** provides ample light as to how the applicability of the Scheme has to be made in strict sense, and the concurrent jurisdictions have to be avoided so as to ensure a smooth travel of the revenue assessments. The liberal interpretation made by the Hon'ble Delhi High Court in **T.K.S. Builders Private Ltd. (supra)** and the Hon'ble Madras High Court in **Mark Studio India Private Limited (supra)** have to be



scrutinized in light of the settled legal position that the Tax Statutes have to be strictly interpreted.

9. Learned counsel for the petitioners have heavily relied upon the judgment rendered by the Hon'ble Bombay High Court in the case of Hexaware Technologies Ltd. (*supra*), wherein while dealing with the issue as to whether the impugned notice was invalid or bad in law being issued by the jurisdictional Assessing Officer as the same was not in accordance with Section 151A of the Income Tax Act; the Court delved into the nitty-gritty of the faceless regime in India, conducted a critical study of Faceless Assessment of income escaping assessment as provided under Section 151A, power of CBDT to notify Scheme vis-à-vis faceless assessment and nature of such notification and concluded that the Scheme framed by the CBDT, which covers both the 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 and re-computation under Section 147 of the Act and inapplicable 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. Accepting an argument against the above position of law would render Clause 3(b) of the Scheme otiose and to be ignored or contravened; and, implicitly would thereby make the whole Scheme otiose.

10. Further it is also noteworthy that if clause 3(b) of the Scheme is not applicable, then only clause 3(a) of the Scheme remains. What is covered in clause 3(a) of the Scheme is already



provided under Section 144B(1) of the Act which provides for faceless assessment and covers assessment, re-assessment or re-computation under Section 147 of the Act. Therefore, in absence of Clause 3(b), there is no purpose of framing the Scheme only for Clause 3(a) as the same is anyways covered under Section 144B, would make the whole Scheme redundant. Such an interpretation of law renders the Scheme and its purpose superfluous, and shall not be adopted.

11. This Court further observes that the phrase "to the extent provided in Section 144B of the Act" in the Scheme is with reference to only making assessment and reassessment of the total income or loss of the assessee and therefore does not go with issuance of notice. The Scheme provides that the notice under Section 148 of the Act, shall be issued through automated allocation, in accordance with risk management strategy formulated by the Board as referred to in Section 148 of the Act and in a faceless manner. Further, the exceptions provided in sub-sections (7) and (8) of the Section 144B of the Act and would also be applicable to the Scheme.

12. A reference to random in the Scheme is with reference to selection of Assessing Officer at random and not selection of Section 148 cases as random. If the cases for issuance of notice under Section 148 of the Act are selected based on criteria of risk management strategy, then obviously, the same are not randomly selected. The term 'randomly' by definition mean something which is chosen by chance rather than according to a plan. Therefore, if the cases are chosen based on risk management strategy, they



certainly cannot be said to be random. The Computer/System cannot select cases on random but selection can be based on certain well-defined criteria.

13. This Court observes that Statute so created, was required to eliminate the interface between the income tax authorities and the assessee, while optimizing the utilization of the resources and also creating a harmonious atmosphere with a dynamic jurisdiction. The Scheme of the Central Government, in the opinion of this Court, was also to further fortify the legislative intention of strengthening the process of assessment, reassessment & re-computation. This Court further observes that even the strong rigors, having been provided for the purpose of Sections 148, 148A of the Act of 1961 and the sanction under Section 151A coupled with the CBDT Scheme, were meant to strengthen the system of revenue assessment.

14. This Court further observes that the automated allocation in a faceless manner was to be given effect to, as far as possible, and any deviation from the same, would not only hamper the legislative intention behind the revenue assessment to be made faceless, but will also create a concurrent and a parallel jurisdiction, thereby leading to conflict between the two jurisdictions.

15. This Court also observes that the FAO has been assigned specific jurisdiction and the Scheme dated 29.03.2022 also clearly indicates that the FAO has to be the jurisdictional authority. The opening of multiple jurisdictional avenues will not only lead to confusion, but will also result into a failure on the part of the



Revenue, to give a concrete opportunity to the assessee. The concurrent jurisdiction of FAO and the JAO, if accepted, would defeat the very purpose of statutory provisions i.e. Sections 151A & 144B of the Act of 1961. The words carefully chosen by CBDT, include 'automated allocation', and the baseline for the same being 'algorithm for randomized allocation', clearly show that the technology was supposed to be used for the purpose of allocating jurisdiction to a random officer.

16. This Court is of the opinion that Section 151A of the Act of 1961 deals with the assessment, reassessment and re-computation provided in Sections 147 & 148 of the Act of 1961, and therefore, the same has to be faceless and the FAO has to have an exclusive jurisdiction to issue the notices.

17. The Scheme to the extent of Section 144B of the Act of 1961 for issuance of notice cannot be said to be relevant for the purpose of issuing notices under Section 147 & 148 of the Act of 1961. Sections 147 & 148 have been kept separately. The restrictions provided for the purpose of Section 144B shall be relevant.

18. This Court further observes that any jurisdictional error in the notices has to be cured and thus, the notices which have been issued for assessment and reassessment and which are the impugned notices under Section 148 of the Act of 1961, do not withstand the broader scheme of law, which requires automated allocation based on algorithm and random assignment of the assessing officer. Part 2(i)(a) of the Scheme clear demarcates as to how the assessment and reassessment has to take place.



19. This Court is conscious of the fact that any reform or change for betterment is always resisted by the persons in control, particularly those who do not visualize the pragmatic and progressive paths which require vision and wisdom. The legislature in its own vision and wisdom, for enhancing the efficiency of the taxation system by making it more transparent and impartial, decided to have infused technology in the shape of an algorithm for randomised allocations of cases, by using suitable technological tools, including artificial intelligence and machine learning, with a view to optimise the use of resources. The common tendency to cling to control and old methods has to be dealt with firmly and ways & means including loopholes to fall back upon the old regime of control is an imminent danger which has to be thwarted off. The legislative intention, legislative vision and legislative wisdom has to be given full meaning in terms of technology and progressiveness, and thus, once an effective and strong step has been taken towards faceless regime, then maintaining the strings of local control to the prejudice of a common man would not only undermine the legislative wisdom but the gains in terms of such a progressive and pragmatic step would stand to reduce. Once the gear of progress has been applied in a democratic set up, the same has to be strongly supported and sustained. The CBDT Circular read with Section 151A of the Act of 1961 has to be given full meaning and any ways & means to defeat the technology or to manually try to control the same would go against the legislative purpose.



20. Thus, this Court holds that the mandate of Section 151A of the Act of 1961 has to be strictly followed as there cannot be a way out of doing the same. This Court also holds that the JAO shall not have the jurisdiction to issue notices under Section 148 of the Act of 1961, as it would not only render Section 151A weak, but may also lead to its diminishing activation. For the purpose of assessment and reassessment under Sections 147, 148 & 148A and in light of the sanction under Section 151A, adherence has to be made to algorithm based random assessing system, and therefore, the impugned notices deserve to be quashed.

21. Consequently, the present writ petitions are **allowed**. Accordingly, the impugned Notices are quashed and set aside, as far as the jurisdiction of JAOs for the purpose of Sections 148 & 148A of the Act of 1961 to issue the same is concerned. The question raised herein stands answered in the terms indicated above, with liberty to the respondents to issue fresh notices in compliance of the CBDT Notification dated 29.03.2022, by keeping the FAO as assessing officer.

21.1 However, the time spent during the pendency of the present litigation in the Court, shall be excluded for the purpose of computing limitation for issuance of fresh notices, in case, need arises.

21.2 All pending applications stand disposed of.

(MUNNURI LAXMAN),J

(DR. PUSHPENDRA SINGH BHATI),J

SKant/-