

IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH, CHANDIGARH

HYBRID HEARING

**BEFORE HON’BLE SHRI RAJPAL YADAV, VICE PRESIDENT
AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**आयकरअपीलसं./ ITA No.1026/CHANDI/2025
(निर्धारणवर्ष / Assessment Year: 2021-22)**

Ms. Pooja Aggarwal House No.218, Sector-10 Panchkula – 134113	बनाम/ Vs.	ACIT Central Shimla 171001
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. ABNPA-6660-N		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Sh. Ajay Jain (CA)a/w Shri Lovesh Bansal (CA) – Ld. ARs
प्रत्यर्थीकीओरसे/ Respondent by	:	Smt. Kusum Bansal (CIT) – Ld. DR

सुनवाईकीतारीख/ Date of Hearing	:	15-09-2025
घोषणाकीतारीख / Date of Pronouncement	:	24/11/2025

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2021-22 arises out of an order of learned Commissioner of Income Tax (Appeals)-3, Gurgaon [CIT(A)] dated 31-07-2025 in the matter of an assessment framed by Ld. AO u/s 147 of the Act on 12-03-2025. The assessee is aggrieved by confirmation of substantive addition of Rs.16.21 Lacs and protective addition of Rs.10.95 Lacs. The additions stem from search action by the department on assessee-group on 04-

11-2022. Subsequent to search action, the case was centralized vide order u/s 127 dated 28-07-2023. Subsequently, a notice u/s 148 was issued on 29-12-2023 which is kept on record in the paper-book. The said notice has been issued by *G Poojitha DCIT / ACIT (Central) Shimla*. In response thereto, the assessee filed return of income on 30-01-2024 declaring income of Rs.13.34 Lacs. Based on search findings, Ld. AO framed the assessment making impugned substantive as well as protective addition in the hands of the assessee. The assessment was confirmed by Ld. CIT(A) against which the assessee is in further appeal before us. The Ld. AR raised pertinent legal grounds and advanced arguments on merits also which has been controverted by Ld. CIT-DR.

2. The Ld. AR, at the outset, raised pertinent legal ground No.1 to assert that reopening is bad-in-law and in derogation of the provisions of Sec.151A read with CBDT Notification No.18/2022 dated 29-03-2022 which mandate issuance of such notice by Faceless Assessing Officer (FAO) only. The Ld. AR further contended that in terms of ratio of various decisions of jurisdictional High Court, issuance of notice u/s 148 by Jurisdictional Assessing Officer (JAO) instead of Faceless Assessing Officer (FAO) would vitiate the entire assessment proceedings. The Ld. AR referred to notice issued by Ld. AO u/s 148 on 29-12-2023 which is kept on Page No.7 of the paper-book. This notice has been issued by *G Poojitha DCIT / ACIT (Central) Shimla* who happens to be the Jurisdictional Assessing Officer (JAO) of the assessee. The CIT-DR could not controvert the said position but stated

that the matter is under consideration before Hon'ble Supreme Court and pleaded for dismissal of this legal ground.

3. The undisputed fact that emerges is that notice u/s 148 has been issued on 29-12-2023 by Jurisdictional Assessing Officer (JAO) instead of Faceless Assessing Officer (FAO). This notice, in terms of notification of the Central Government dated 29-03-2022 u/s 151A sub-section (1) and (2) of the Income Tax Act, was required to be issued by FAO. The failure to do so would vitiate the assessment proceedings as per the lead decision of Hon'ble High Court of Punjab & Haryana in the case of **Jatinder Singh Bhangu (165 Taxmann.com 115; dated 19-07-2024)**, the substantive portion of which read as under: -

15. From the perusal of Section 151A, it is quite evident that scheme of faceless assessment is applicable from the stage of show cause notice under Section 148 as well as 148A. Clause 3 (b) of notification dated 29.03.2022 issued under Section 151A clearly provides that scheme would be applicable to notice under Section 148. Even otherwise, it is a settled proposition of law that assessment proceedings commence from the stage of issuance of show cause notice. The object of introduction of faceless assessment would be defeated if show cause notice under Section 148 is issued by Jurisdictional Assessing Officer. The respondents are heavily placing reliance upon office memorandum and letter issued by departmental authorities. It is axiomatic in tax jurisprudence that circulars, instructions and letters issued by Board or any other authority cannot override statutory provisions. The circulars are binding upon authorities and Courts are not bound by circulars. The mandate of Section 144B, 151A read with notification dated 29.03.2022 issued thereunder is quite lucid. There is no ambiguity in the language of statutory provisions, thus, office memorandum or any other instruction issued by Board or any other authority cannot be relied upon. Instructions/circulars can supplement but cannot supplant statutory provisions.

16. In the wake of above discussion and findings, we find it appropriate to subscribe view expressed by Bombay, Telangana and Gauhati High Court. The instant petitions deserve to be allowed and accordingly allowed.

17. The notices issued by Jurisdictional Assessing Officer under Section 148 are hereby quashed with liberty to respondent to proceed in accordance with procedure prescribed by law.

This decision has been followed by the same court in several subsequent decisions, the latest being the decision in **Om Satya Overseas (178 Taxmann.com 137; dated 29-08-2025)** as well as the decision in **Amit Khanna vs. ITO (CWP-32206-2025 dated 31-10-2025)**. No change in facts has been demonstrated before us and nothing has been shown to us that the aforesaid decisions have subsequently been stayed by any higher appellate forums.

4. The Ld. CIT-DR has pleaded that such faceless scheme is not applicable to Central charges and International Taxation matters. We find that this controversy also has been dealt with by Hon'ble Bombay High Court in the case of **Abhin Anilkumar Shah vs. ITO, international Taxation 166 Taxmann.com 679 dated 28-08-2024**) wherein Hon'ble Court, referring to the decision in **Hexaware Technologies Ltd. vs. ACIT (464 ITR 430)**, dealt with a case of international charge and adjudicated the controversy in favor of the assessee as under: -

12. Having heard the learned counsel for the petitioner and Mr. Mistry, the learned amicus, it is clear to us that although the objection of Ms. Goel at the first blush appeared to be attractive, when we first heard the matter on earlier occasion, however on a deeper scrutiny, such objection needs to fail. Ms Goel's contention that the category of cases as notified under order(s) dated 31 March, 2021 and 6 September, 2021 issued under section 119 of the Act providing for exclusion of cases assigned to the central and international charges from the applicability of Section 144B of the Act is concerned, certainly cannot be accepted to be the correct position in law.

13. Such contention of Ms Goel needs to fail for more than one reason. Firstly, the order dated 31 March, 2021 issued under sub-section (2) of Section 144B of I.T. Act and order dated 6 September, 2021 issued under section 119 of the Act apply only in respect of "assessment orders to be passed, as clearly seen from the content of both such orders, which we have extracted hereinabove; Secondly, the scheme notified under section 151A under notification dated 29 March, 2022 applying the procedure of faceless mechanism to the proceedings under Section 148A and Section 148 is neither subject to the

applicability of the prior order dated 31 March, 2021 read with 6 September, 2021 nor is it explicit so as to include the applicability of the said orders to the scheme as notified under section 151A; Thirdly, it would be doing violence to the language of the notification/scheme dated 29 March, 2022 to read into such notification what has not been expressly provided for and/or something which is kept outside the purview of the said notification, namely, the orders dated 31 March, 2021 and 6 September, 2021. It would be uncalled for as also not appropriate for the Court to read into the scheme dated 29 March, 2022, something which is not included. It cannot be said that the Central Government was not aware as to what was provided for in the orders dated 31 March, 2021 and 6 September, 2021 so as to not include the same under the scheme dated 29 March, 2022. It would thus be not correct, that the Court nonetheless reads into the scheme dated 29 March, 2022 the applicability of orders dated 31 March, 2021 and 6 September, 2021. In fact such approach would also be contrary to the mandate of Section 151A and to the scheme framed thereunder.

14. Thus, accepting Ms Goel's contention to read into the scheme as contained in the notification dated 29 March 2022, the applicability of the order dated 31 March, 2021 and 6 September, 2021 would in fact amount to not only rewriting such scheme issued by the Central Government but reading something into the provisions of section 151A which the legislature itself has not provided for. Section 151A and the Scheme notified below it stand independent under the notification dated 31 March 2022. Further, as rightly pointed out by Mr. Mistry, Section 151A is not subject to the other provisions of the Act when it empowers that the Central Government to make a scheme in the context of section 147 or for issuance of notice under section 148A and for conducting a prior enquiry by issuance of a show-cause notice or passing order under section 148A of the Act. The provisions is intended with an object of achieving efficiency, transparency and accountability inter alia by eliminating the interface between the income tax authority, optimizing utilization of the resources through economies of scale and functional specialization, and by introducing a team based assessment, reassessment, recomputation or issuance or sanction of notice with dynamic jurisdiction, as set out in clauses (a), (b) and (c) of sub-section 151A of the Act. 15.

Thus, on a bare reading of section 151A as it stands, read with the scheme notified thereunder, we are of the clear opinion that the observations as contained in Paragraphs 10 and 11 of our decision in CapitalG LP do not require any reconsideration.

16. In the above context, Mr. Mistry has also drawn our attention to the decision of the Division Bench of the High Court of Telangana in Sri Venkataramana Reddy Patloola v. Deputy Commissioner of Income Tax, Circle 1(1), Hyderabad & Ors. 2024 SCC OnLine TS 1792 to contend that such decision fortifies the view taken by us in CapitalG LP (supra) to submit that such decision takes a similar view, when an identical issue had fallen for consideration of the Division Bench of the High Court of Telangana, namely, whether the show cause notice issued under section 148 of the Act in matters relating to international taxation charges are exempted to follow the procedure of faceless proceedings. In an elaborate judgment, their Lordships considering the provisions of section 151A as also the Notification dated 6 September, 2021 and the scheme notified by the Central Government under Notification dated 29 March, 2022 have held that only the actual assessment or reassessment would be laid in a face to face mode while the selection of cases and issue of notices could be in the faceless mode.

17. We have thus reached a considered conclusion that the mandatory faceless procedure for issuance of notice under section 148 of the Act falling within the purview of the scheme notified by the Central Government dated 29 March, 2022 would not exclude the Central charges and International taxation charges from the application of the faceless mechanism as notified under section 144B read with section 151A of the Act.

18. The result of the above discussion is to the effect that this Court not only in Hexaware and thereafter in CapitalG LP (supra), but also the Division Bench of the High Court of Telangana in Sri Venkataramana Reddy Patloola (supra), to have consistently held that in respect of central charges and international taxation charges, the proceedings under Section 148A read with Section 148 of the Act would be required to be held in a faceless manner, applying the provisions of section 144B and as effected under the provisions of section 151A read with scheme notified by the Central Government vide a Notification dated 29 March, 2022. We accordingly reject the contentions as urged by the revenue that the present case would fall outside the applicability of the said provisions and the scheme.

19. Now coming to the facts of the case, as the notices were issued by the JAO certainly they fall outside the purview of the faceless mechanism and on that count as held in the decision of Hexaware, the same would be required to be held to be illegal and without jurisdiction. We may also observe that the proceedings would also stand covered by the decision of this Court in Kairos Properties Pvt. Ltd. v. Assistant Commissioner of Income-tax and Ors. 2 ("Kairos Properties"), in which the Court has held the scheme to be applicable to the procedure to be adopted under section 148A of the Act as well.

20. In these circumstances, the Petition needs to be succeeded. It is accordingly allowed in terms of prayer clause (a), which reads thus:

"a) that this Hon'ble Court be pleased to issue a Writ of Certiorari or Writ in the nature of Certiorari or any other appropriate Writ, order or Direction under Article 226 of the Constitution of India calling for the records of the Petitioner's case and, after going through the same and examining the question of legality and validity thereof, be pleased to quash and set aside the impugned notice dated 31 March 2024 (Exhibit "D"), the impugned order dated 19 April 2024 (Exhibit "F") and the impugned reassessment notice dated 19 April 2024 (Exhibit "G") pertaining to the assessment year 2017-18;"

21. We express our gratitude to Mr. Mistry for his valuable assistance on the concerns as raised by us in our order dated 14 August, 2024.

22. Rule is made absolute in the aforesaid terms. No costs

The Hon'ble Court ultimately concluded that the scheme notified by the Central Government on 29-03-2022 would not exclude the Central charges and International Taxation charges from the application of the faceless mechanism as notified under section 144B read with section 151A of the Act. Respectfully following these decisions, we would hold that the impugned notice as issued by JAO u/s 148 on 29-12-2023 is

liable to be quashed on this score only. We order so. Consequently, delving into other grounds of assessee's appeal has been rendered merely academic in nature and hence, not dealt with by us. The impugned assessment order stands quashed. The addition made by Ld. AO would not survive.

5. The assessee's appeal stand allowed in terms of our above order.

Order pronounced on 24/11/2025

Sd/-
(RAJPAL YADAV)
VICE PRESIDENT

Sd/-
(MANOJ KUMAR AGGARWAL)
ACCOUNTANT MEMBER

Dated: 24/11/2025

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

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT CHANDIGARH