THE HON'BLE SRI JUSTICE BATTU DEVANAND

AND

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

WRIT PETITION Nos:

14681/2023; 112/2025; 158/2025; 211/2025; 337/2025; 660/2024; 1445/2025; 1485/2025; 1514/2025; 1537/2025; 1539/2025; 2056/2025; 2142/2025; 2390/2025; 2639/2025; 2947/2025; 3810/2025; 3940/2025; 4270/2024; 4285/2024; 4292/2024; 4296/2024; 4340/2024; 4341/2025; 4677/2025; 4780/2025; 4901/2024; 4991/2024; 5266/2024; 5385/2024; 5450/2025; 5452/2024; 5534/2025; 5538/2025; 5542/2025; 5543/2025; 5561/2025; 5564/2025; 5805/2025; 5866/2025; 5934/2025; 5936/2025; 6096/2025; 6161/2025; 6162/2025; 6304/2024; 6424/2024; 6605/2025; 6718/2025; 6731/2025; 7394/2024; 7694/2024; 7695/2024; 7704/2024; 7706/2024; 8129/2024; 8134/2024; 8164/2024; 8256/2024; 8266/2024; 8274/2024; 8281/2024; 8282/2024; 8283/2024; 8294/2024; 8295/2024; 8297/2024; 8372/2024; 8527/2024; 8649/2024; 8786/2025; 8795/2025; 8896/2025; 8944/2025; 8966/2025; 9006/2024; 9083/2024; 9128/2024; 9295/2024; 9476/2024; 9517/2024; 9657/2024; 9713/2024; 9726/2024; 9792/2024; 9794/2024; 9797/2024; 9801/2024; 9803/2024; 9805/2024; 9806/2024; 9944/2024; 10212/2024; 10349/2024; 10361/2024; 10367/2024; 10552/2024; 10579/2024; 10634/2024; 10635/2024; 10636/2024; 10651/2024; 10791/2024; 10807/2024; 11105/2024; 11168/2024; 11212/2024; 11214/2024; 11241/2024; 11254/2024; 11256/2024; 11341/2024; 11382/2024; 11391/2024;11401/2024;11582/2024;11605/2024; 11652/2024; 11751/2024; 12324/2024; 12426/2024; 12452/2024; 12560/2025; 12564/2025; 12567/2025; 12731/2025; 12734/2025; 12825/2023; 12870/2024; 12989/2024; 13045/2024; 13128/2024; 13177/2024; 13284/2024; 13324/2024; 13402/2025; 13419/2024; 13458/2024; 13460/2024; 13605/2024; 13624/2024; 13629/2024;13631/2024;13692/2025;13745/2024;13862/2024;13893/2024;13924/2024;13925/2024; 14128/2024; 14135/2024; 14140/2024; 14142/2024; 14350/2025; 14508/2024; 14615/2024; 14616/2024; 14617/2024; 14623/2024; 14655/2025; 14668/2025; 14675/2025; 14678/2023; 14685/2025; 14713/2024; 14785/2024; 14792/2024; 14852/2023; 14855/2025; 15047/2024; 15238/2024; 15681/2024; 15794/2025; 15895/2025; 15902/2025; 15903/2025; 15966/2025; 16130/2024; 16178/2024; 16264/2025; 16301/2024; 16442/2024; 16443/2024; 16454/2024; 16842/2025; 16923/2024; 16977/2024; 17007/2024; 17295/2024; 17456/2022; 17850/2024; 17858/2024; 17895/2024; 17897/2024; 17902/2024; 18278/2025; 18390/2024; 18669/2024; 18722/2024; 19003/2025; 19008/2025; 19015/2025; 19048/2024; 19064/2024; 19075/2024; 19157/2025; 19371/2025; 19539/2025; 19684/2024; 19729/2024; 19938/2025; 20095/2024; 20104/2024; 20113/2024; 20410/2024; 20466/2025; 20629/2025; 20633/2024; 20725/2024; 20745/2025; 20950/2024; 21010/2024; 21046/2024; 21097/2024; 21111/2024; 21112/2024; 21113/2024; 21116/2024; 21117/2024; 21120/2024; 21121/2024; 21128/2024; 21129/2024;21130/2024;21599/2024;21879/2024; 21881/2024; 21883/2024; 22277/2024; 22339/2024; 22341/2024; 23385/2024; 23636/2024; 23639/2024; 23998/2024; 24907/2024; 24908/2024; 24909/2024; 24910/2024; 24916/2024; 24920/2024; 25305/2024; 25307/2024; 26168/2024; 27702/2024; 27717/2024; 27765/2024; 27875/2024; 27935/2024; 28282/2024; 28394/2024;28433/2024;28436/2024;28452/2024;28457/2024;28463/2024;28499/2023;28500/2024; 28510/2024; 28520/2023; 28858/2024; 29219/2024; 29238/2024; 29250/2024; 29260/2024; 29345/2024; 29353/2024; 29443/2024; 29495/2024; 29768/2023; 29960/2023; 29980/2024; 30332/2024; 30334/2024; 30453/2024; 31418/2024; 31645/2023; 31762/2023; 31805/2023; 32028/2023; 32056/2023; 32074/2023; 32177/2023; 32179/2023; 32186/2023; 32364/2023; 32366/2023; 32368/2023; 32486/2023; 32489/2023; 32740/2023; 33047/2023; 33089/2023; 33219/2023; 33229/2023; 33232/2023; 33647/2023; 13747/2025; 16945/2025,

18368/2025,18732/2025; 19422/2025; 20185/2025; 21533/2025; 21975/2025; 22201/2025; 22673/2025; 22866/2025; 23299/2025; 23301/2025; 23314/2025; 23930/2025; 23983/2025; 24016/2025;24334/2025;24339/2025;24536/2025; 25086/2025; 25482/2025; 26135/2025 and 26840/2025

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COMMON ORDER: *(Per Hon'ble Sri Justice Battu Devanand)*

Heard respective counsel appearing for the petitioners and the respondents in all Writ Petitions. Perused the material available on record.

2. As the issue involved in all these Writ Petitions is one and the same, all these Writ Petitions are disposed of by a common order.

3. All these Writ Petitions are filed under Article 226 of the Constitution of India, challenging the notices issued to the petitioners under Section 148-A(b) and orders passed under Section 140-(A)(d) of the Income Tax Act, 1961 and the consequential notices issued under Section 148 by the respondents.

4. **For proper adjudication, of these cases, it is desirable and relevant to look into the background of "Faceless Assessment Scheme" under the Income Tax Act, 1961 as herein under:**

(i) The Finance Act, 2018 provides for making a Scheme to impart greater efficiency, transparency and accountability by eliminating interface between the assessing officer and the assessee, optimizing the utilization of resources through economics of scale and functional specialization and introducing team-based assessment with dynamic jurisdiction for the purpose of making assessment. Accordingly, a Scheme namely ('E-Assessment Scheme, 2019) was formulated containing detailed procedure to be followed

for the purpose of making assessment and the same was notified on 12.01.2019. Initially, this Scheme was made applicable to the assessment under Section 143(3). Later, the proceedings under Section 144 were also included in this Scheme. Subsequently, the said Scheme was modified into 'Faceless Assessment Scheme, 2019' and the same was notified.

(ii) The Financial Act, 2021 introduced Section 144(B) in the Income Tax Act 1961 with effect from 01.04.2021, incorporating the Faceless Assessment Scheme, directly into the Act with certain modifications. The said provision was amended by the Finance Act, 2022 to include proceedings under Section 147 of the Act also under the Scheme of Faceless Assessment. Thus, the Faceless Assessment Scheme, 2019 stands inapplicable with effect from 01.04.2021 after introduction of this Scheme under Section 144(B) of the Act.

(iii) With effect from 01.11.2020, introduced Section 151(a) in the Income Tax Act, 1961 for Faceless Assessment of Income Tax Escaping Assessment, vide the Taxation and other laws (relaxation and amendment of certain provisions) Act, 2020. The said provision contemplates a scheme to be made by the Government vide notification and the official gazette for the purpose of assessment, re-assessment or re-computation under Section 147 or issuance of notice(s) under Section 148, conducting of enquiries, issuance of show cause notices, passing of order(s) under Section 148 (a) and sanction for issue of notice under Section 151 of the Act so as to impart greater efficiency, transparency and accountability by eliminating the interface between the income tax authority and the assessee or any other person to the

extent technologically feasible. It is also sought to optimize utilization of resources through economics of scale and financial specialization and to introduce a team-based assessment, re-assessment or re-computation or issuance or sanction of notice with automatic jurisdiction.

(iv) Therefore, the Government of India notified the "E-Income Assessment Scheme, 2022" on 29.03.2022 for assessment, re-assessment or re-computation under Section 147 of the Act and for issuance of notice under Section 148 of the Act through automated allocation as referred to in Section 148 of the Act for issuance of notice and in a faceless manner to the extent in Section 144 (B) of the Act. Thus, re-allocation proceedings are brought into the faceless scheme with the incorporation of Section 151 (A) of the Income Tax Act.

(v) The procedure for the faceless assessment scheme has laid down in Section 144 (B) of the Act is as herein under:-

(a)The National Faceless Assessment Centre (NFAC) assigns case selected for faceless assessment through automated allocation system to assessment unit.

(b)The National Faceless Assessment Centre (NFAC) intimates the assessee that assessment shall be completed in accordance with the procedure laid down in Section 144 (B) of the Act.

(c)Notice is served to assessee through The National Faceless Assessment Centre (NFAC) under Section 143 (2) or 142 (1) of the Act and assessee may file his response within specified date mentioned in the notice to NFAC, which shall forward the same to the assessment unit.

(d)The detailed process for faceless by NFAC is as laid down in Section 144 (B)(1)(iv to XXXII) of the Income Tax Act, 1961.

5. **Contentions of the learned counsel for the petitioners:**

(i) It is the contention of the learned counsels appearing for the petitioners that after introduction of the “E-Assessment of Income Tax Escape Scheme, 2022” which came into force from 29.03.2022, it has become mandatory for the revenue to conduct/initiate proceedings pertaining to re-assessment under Section 147 and 148 of the Act in a faceless manner. As such, the impugned orders/notices issued under Section 148 (A)(D) of the Act as well as the notices under Section 148 of the Act which were issued by the jurisdictional assessment officer (“JAO”), are not in accordance with the procedure provided under the said scheme and accordingly, it is liable to be set-aside on the ground of lack of jurisdiction.

(ii) They further contend that the arbitrary action of revenue would frustrate the very object of the new re-assessment brought in the way of amendments in the Income Tax Act, 1961 through the Finance Act, 2021. They further contend that if the revenue is allotted to proceed further, despite the petitioner strictly abiding by law, it would cause great hardship to the petitioners and would result in sheer harassment.

(iii) The learned counsel for the petitioners has placed reliance on the judgment of the High Court of Judicature at Bombay, dated 12.08.2024 in W.P.No.10749 of 2024, in the case of ***Prakash Pandurang Patil Vs. Income Tax Officer, Ward 5, Panvel & Others***, to substantiate their stand and would submit that the said judgment of the High Court of Judicature at Bombay, has been upheld by the Hon’ble Supreme Court of India by its order, dated

18.08.2025 in Special Leave Petition (Civil) Diary No. 39689/2025. In the light of the said judgments, learned counsel for the petitioners would submit that the issue involved in the present Writ Petitions is squarely covered in the decisions stated supra and accordingly, sought to allow these Writ Petitions.

6. **Contentions of the learned counsel for the respondents:**

(i) On the other hand, the learned Standing Counsel appearing for the respondents would submit that the notification in S.O.1466 (E) dated 29.03.2022 does not state whether the notice is to be issued by the National Faceless Assessment Centre (NFAC) or the Jurisdictional Assessing Officer (J.A.O)., the said notification speaks of the scope of the scheme with regard to the procedure covered by it and lays down the legal contours of how such procedures are to be carried out. It states that the issuances of notices under Section 148 of the Act, shall be through admitted allocation in accordance with the risk management strategy and that the assessment shall be in a faceless manner to the extent provided in Section 144 (B) of the Act.

(ii) The learned Standing Counsel would contend that it is apparent that in the process for re-assessment, as it exceeds as on today, both are being followed accordingly, they would contend that it will be in correct to state that the issuance of notice by the Jurisdictional Assessing Officer is without jurisdiction. They further contend that since Section 144 (B) of the Act does not provide for issuance of notice under Section 148 of the Act, there can be no ambiguity in the fact that the Jurisdictional Assessing Officer still has the jurisdiction to issue notice under Section 148 of the Act. Accordingly, learned

Standing Counsel submits that the notices/orders issued under Section 148 A/ 148 of the Act still hold good and cannot be termed as without jurisdiction and each case will have to be dealt with independently.

7. **Discussion and findings:**

(A). The Division Bench of the Bombay High Court in the case of ***Prakash Pandurang Patil Vs. Income Tax Officer, Ward 5, Panvel & Others*** by following the judgment of a Division Bench of the High Court of Bombay, in the case of Hexaware Technologies Limited Vs. Assistant Commissioner of Income Tax & 4 Ors [1] had considered the effect and interpretation of the Section 151 (A) of the Income Tax as extracted herein under:

> "3. It is apparent that the impugned notice dated 5 April, 2022 issued under Section 148 of the Act and the order of the same date under Section 148A(d) of the Act are issued by the Jurisdictional Assessing Officer ("JAO") and not under the mandatory faceless mechanism as per the provisions of Section 151 A of the Act. For a notice to be validly issued under Section 148 of the Act, the respondent No.2 would be required to comply with the provisions of Section 151A of the Act, so as to adhere to the faceless mechanism, as notified by the Central Government by notification dated 29 March 2022. A Division Bench of this Court in the case of Hexaware Technologies Limited Vs. Assistant Commissioner of Income Tax & 4 Ors [2] had considered the effect and interpretation of the said provision. The relevant extract of the said decision reads thus:-
>
> > 35. Further, in our view, <u>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</u>. When specific jurisdiction has been assigned

[1] (2024) 464 ITR 430
[2] (2024) 464 ITR 430

to either the JAO or the FAO in the scheme dated 29.03.2022, 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 argument 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 144 B of the Act and Section 144 B 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 re-computation 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, and which has been laid before both House of Parliament is partly otiose and inapplicable….."

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 statue, itself causes prejudice to assessee. All assessees 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.

4. It is hence apparent that in the present case, the impugned order and the notices issued by respondent no.1 are not in compliance with the Scheme notified by the Central Government implementing the provisions of Section 151A of the Act. The Scheme, as tabled before the Parliament as per the requirements of the said provision,

> is in the nature of a subordinate legislation, which governs the conduct of proceedings under Section 148A as well as Section 148 of the Act. Thus, in view of the explicit declaration of the law in Hexaware Technologies Limited (supra), the grievance of the petitioner- assessee insofar as it relates to an invalid issuance of the impugned order and the notice is required to be accepted.
>
> 5. Learned Counsel for the parties agree that in this view of the matter, the proceedings initiated under Section 148 of the Act would not be sustainable and are rendered invalid in view of the judgment rendered in Hexaware Technologies Limited (supra)."

(B). Further, it is very apt to refer the judgment of the High Court of Telangana in the case of Kanakanala Ravindra Reddy Vs. Income Tax Officer[3], decided on 14.09.2023 whereby a batch of Writ Petitions were allowed and the proceedings initiated under Section 148A as also under Section 148 of the Act were held to be bad with consequential reliefs on the ground of it being in violation of the provisions of Section 151 A of the Act read with Notification 18/2022 dated 29.03.2022.

(C). It is also to be noted that the same issue had also been decided by various High Courts in India i.e., Gauhati High Court in the case of Ram Narayan Sah Vs. Union of India [4], Punjab and Haryana High Court in the case of Jatinder Singh Banngu Vs. Union of India[5] and Telangana High Court in the case of Sri Venkataramana Reddy Patloola Vs. Deputy Commissioner of Income Tax[6]. Some views have been taken by the Division Bench of Calcutta High Court in the case of Giridhar Gopal Dalmia Vs.Union of India Vs. Ors[7],

[3] (2023) 156 taxmann.com 178 (Telangana)
[4] (2024) 156 taxmann.com 478 (Gauhati)
[5] (2024) 165 taxmann.com 115(Punjab & Haryana)
[6] (2024) 167 taxmann.com 411 (Telangana)
[7] M.A.T. 1690 of 2023

decided on 25.09.2024. In these decisions, the various High Courts allowed the Writ Petitions in favour of the assessee in so far as the issue of jurisdiction is concerned.

(D). Admittedly, the Supreme Court has upheld the decision of the Bombay High Court in the case of Prakash Pandurang Patil Vs. Income Tax Officer, Ward 5 Panvel & Ors in S.L.P.(Civil) Diary No.39689/2025, dated 18.08.2025, wherein, the Bombay High Court has allowed the said Writ Petition by following the judgment of the Division Bench of the Bombay High Court in the case of Hexaware Technologies Limited Vs. Assistant Commissioner of Income Tax & 4 Ors. In view of the above factual position, we are of the considered view that the issue involved in the present batch of Writ Petitions is no more *res integra*.

(E). Considering the background in notifying the (E-Assessment Scheme of Income Escaping Assessment Scheme, 2022) notified by the Government of India on 29.03.2022, and in the light of the decisions of various High Courts stated supra and upon careful consideration of the contentions raised by the learned counsel appearing on either side, we hold that the impugned notices and orders which have been issued by the Jurisdictional Assessing Officer, or outside the faceless mechanism as provided under the provisions of Section 144 (b) read with Section 151 A and the “E-Assessment Scheme of Income Escaping Assessment Scheme, 2022” notified by the Government of India on 29.03.2022 under Section 151 A, is bad and illegal. It

is made clear that the Jurisdictional Assessing Officer ("JAO") had no jurisdiction to issue the impugned orders/notices.

(F). In view of the foregoing reasons, all these Writ Petitions are to be allowed in favour of the petitioners, by setting aside the impugned notices/orders.

8. Accordingly, these Writ Petitions are allowed.

(i) Consequently, the impugned notices/orders issued under Sections 148-A(b), 148-A(d) and 148 of the Income Tax Act, 1961, in all these Writ Petitions, are hereby set-aside.

(ii) The consequential orders, if any, shall stand set-aside.

9. There shall be no order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE BATTU DEVANAND

JUSTICE A.HARI HARANADHA SARMA

Note: - Registry to issue C.C. separately in each case.
[B/o]
PKR
Dated: 28 .10.2025

THE HON'BLE SRI JUSTICE BATTU DEVANAND

&

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

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WRIT PETITION Nos. 14681/2023 and batch

Dated: 28 .10.2025
PKR