BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	25.06.2024
Pronounced on	24.01.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.13626 of 2024
and
W.M.P.(MD) Nos.11999 and 12000 of 2024

Ontivillu Gopidoss Jothilakshmi
W/o.O.B.Gopidass ... Petitioner

Vs.

1.The Income Tax Officer,
Non Corporate Ward-2(3),
No.2, V.P.Rathinasamy Nadar Road,
Central Revenue Building,
Bibikulam, Madurai,
Tamil Nadu – 625 002.
2.The Chief Commissioner of Income-Tax,
No.2, V.P.Rathinasamy Nadar Road,
Central Revenue Building,
Bibikulam, Madurai,
Tamil Nadu – 625 002. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records in DIN & Notice No.ITBA/AST/F/148A/2023-2024/1063481722(1) dated 27.03.2024 under Section 148A(d) of the Income Tax Act on the file of the 1st respondent relating to the Assessment Year 2017-2018, quash the same.

For Petitioner : Mr.G.Baskar

For Respondents : Mr.N.Dilip Kumar
Standing Counsel

ORDER

The petitioner has challenged the Impugned Order dated 27.03.2024, issued by the 1st respondent under Section 148A(d) of the Income Tax Act, 1961.

2. By the Impugned Order dated 27.03.2024, the 1st respondent, who is the jurisdictional Income Tax Officer of the petitioner, has held as under:-

> *"In view of the above facts, the income chargeable to tax has escaped assessment to the tune of Rs.1,30,36,000/- in terms of section 147 of the Act.*
>
> *7.All the due procedures laid down u/s 148A of the act have been duly complied with and after having perused the information available on record and the material evidence gathered, I am satisfied that all the conditions mentioned u/s 149(1) are fulfilled and it is a fit case to issue notice u/s 148 of the Income Tax Act, 1961 for the A.Y. 2017-18.*
>
> *8. This order is issued under the prior approval of the CCIT, Madurai as provided u/s 151(ii) of the Income Tax Act, 1961."*

3. The facts on record indicate that the petitioner appears to have had certain cash transactions and also had effected the sale of immovable property during the Financial Year 2016-2017. The petitioner had however failed to file

a Return of Income for the corresponding Assessment Year 2017-2018.

4. In these circumstances, the petitioner was issued with a notice by the 1st respondent under Section 148A(b) of the Income Tax Act, 1961 on 30.01.2024. The petitioner has replied to the same vide two replies dated 11.03.2024 and 12.03.2024, which were ultimately culminated in the Impugned Order.

5. It is case of the petitioner that the Impugned Order dated 27.03.2024 is contrary to the procedure prescribed under Section 151A of the Income Tax Act, 1961, inasmuch as only the Authority *viz.*, Faceless Assessing Officer is entitled to issue a notice under Section 148A(b) of the Income Tax Act, 1961.

6. In this connection, a reference was made to the Notification dated 29.03.2022 of the Central Board of Direct Taxes bearing reference Notification No.18/2022/F.No.370142/16/2022-TPL (Part 1).

7. That apart, it is submitted that as per Section 151 of Income Tax Act, 1961, before a notice is issued, sanction has to be obtained.

8. It is submitted that in this case, no sanction has been obtained as no such sanction proceedings were enclosed along with the Impugned Order. However, the Impugned Order merely states that the order has been issued with the prior approval of Chief Commissioner of Income Tax, Madurai as provided under Section 151(ii) of the Income Tax Act, 1961.

9. In this connection, a reference was made to the decisions of Delhi High Court in the following cases:-

i. **SABH Infrastructure Ltd.** Vs. **Assistant Commissioner of Income tax,** [2018] 99 taxmann.com 409 (Delhi);
ii. Tia Enterprises (P.) Ltd. Vs. **Income-tax Officer,** [2024] 158 taxmann.com 63 (Delhi).

10. That apart, the learned counsel for the petitioner would submit that the issue as to the jurisdiction of the jurisdictional Assessing Officer to issue notice under Section 148 of Income Tax Act, 1961 is no longer *res integra* and is covered by three decisions of the Telangana High Court, Bombay High Court and Gauhati High Court. In this connection, a reference was made to the following three cases:-

i. **Kankanala Ravindra Reddy** Vs. **Income-tax Officer,** [2023] 156 taxmann.com 178 (Telangana);
ii. Hexaware Technologies Ltd. Vs. **Assistant Commissioner of Income-tax, Circle 15(1)(2),** [2024] 162 taxmann.com 225

(Bombay); and

iii. **Ram Narayan Sah** Vs. **Union of India,** [2024] 163 taxmann.com 478 (Gauhati).

11. That apart, the learned counsel for the petitioner would submit that reopening of assessment is barred by limitation in view of the limitation prescribed under Section 149 of the Income Tax Act, 1961 as amended with effect from 01.04.2022.

12. It is submitted that the net value after indexation of the cost is only Rs.36,20,731/- as detailed below:-

Sale consideration	: 64,00,000
Less: Transfer expenses	: 3,20,000
	: 60,80,000
Less: Indexed cost of acquisition (F.Y: 1997-98) 171905/331*1125	: 5,84,269
Cost of improvement (F.Y:2004-05) 800000/480*1125	: 18,75,000
	: 24,59,269
Long term capital gain	: 36,20,731

13. That apart, it is submitted that this Court has also granted interim stay, under similar circumstances vide its Order dated 23.02.2024 in

Sundaravel Blue Metal Pvt. Ltd., Vs. **Income Tax Officer in** W.P.(MD) No. 4312 of 2024.

14. The learned Standing Counsel for the respondents, on the other hand, would submit that there is no merit in this Writ Petition as the petitioner has not filed regular Returns under Section 139 of the Income Tax Act, 1961.

15. It is submitted that Section 148A of the Income Tax Act, 1961 indeed enjoins the Jurisdictional Assessing Officer to issue notice under Section 148A of Income Tax Act, 1961.

16. It is submitted that after the notice dated 30.01.2024 was issued, an order under Section 148A(b) of the Income Tax Act, 1961 was passed on 27.03.2024, assessment cannot be referred to Faceless Assessing Officer in terms of Section 151A read with Section 144B read with e-Assessment of Income Escaping Assessment Scheme, 2022. That apart, it is submitted that in this case, the prescription, which is taken place hitherto to e-Assessment proceedings was contemplated under Section 151 of the Income Tax Act, 1961.

17. It is also submitted that the petitioner cannot challenge the Impugned Order dated 27.03.2024 on merits of the case as the Court is really concerned

with the decision making process.

18. I have considered the arguments of the learned counsel for the petitioner and the learned Standing Counsel for the respondents. The eco-sphere for the assessment has undergone a sea change with effect from 01.04.2021.A notice has to be first issued under Section 148A(b) of the Income Tax Act, 1961 by an Assessing Officer followed by an Order under Section 148A(d) of the Income Tax Act, 1961, before issuing a Notice under Section 148 of the Income Tax Act, 1961.

19. The case of the petitioner is that the entire proceeding was without jurisdiction as only the authority prescribed under Section 144B of the Income Tax Act, 1961 can initiate proceedings under the provisions of the Income Tax Act, 1961 for the alleged escaped income.

20. It has to be also borne in mind that the first attempt to make assessment proceedings faceless was made in 2019 with the issuance of Notification No.61 of 2019 dated 12.09.2019 bearing Reference S.O.No.3264(E) in the exercise of power conferred under sub-section 3(A) of Section 143 of the Income Tax Act, 1961.

21. By the said notification, the E-Assessment Scheme, 2019 was first introduced. By another Notification dated 12.09.2019 in S.O.No.3265(E) was issued in the exercise of powers conferred by sub-section (3B) of Section 143 of the Income Tax Act, 1961 for the purposes of giving effect to the E-Assessment Scheme, 2019. Sub-section (3A) to sub-section (3C) of Section 143 of the Income Tax Act, 1961 were inserted by Finance Act, 2018 with effect from 01.04.2018. The assessment was not fully made faceless. However, an attempt was made to digitize the filing of records in a bid to reduce interface between assessee/their Authorized Representatives with the officers of the Income Tax Department.

22. Thereafter, by Notification S.O.2745(E)/2746(E) both dated **13.08.2020**, the E-Assessment Scheme, 2019 was amended as Faceless Assessment Scheme, 2019. The Central Board of Direct Taxes constituted the National e-Assessment Centre (NeAC). Thus, Faceless Assessment Scheme, 2019 was put in place vide Notification S.O.2745(E)/2746(E) dated **13.08.2020**.

23. With a view to give further impetus to make the assessment faceless, an amendment to the provisions of the Income Tax Act, 1961 was made vide Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 [TOLA, 2021 for brevity] with effect from 01.11.2020. Section 144B of the

Income Tax Act, 1961 and Section 151A of the Income Tax Act, 1961 were introduced into the Income Tax Act, 1961 with effect from 01.11.2020 vide Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, certain other amendments were introduced to the Act by Finance Act, 2021 with effect from 01.04.2021.

24. Several provisions of the Income Tax Act, 1961 were replaced. The new provisions which were inserted and amended vide Finance Act, 2021 are as under:-

Provisions of the Income Tax Act, 1961	**Remarks**	**With effect from**	**As per TOLA Act, 2020**
Section 144B	Inserted	01.04.2021	Finance Act, 2021
Section 147	Amended/Substituted	01.04.2021	Finance Act, 2021
Section 148	Amended/Substituted	01.04.2021	Finance Act, 2021
Section 148A	Amended/Substituted	01.04.2021	Finance Act, 2021
Section 151	Amended/Substituted	01.11.2020/01.04.2021	Finance Act, 2021
Section 151A	Inserted/Amended *	01.11.2020/01.04.2021	Inserted TOLA Act, 2020 and amended by Finance Act, 2021

* By the aforesaid amendment, even proceedings for conducting of enquiries or issuance of Show Cause Notice or passing of order under Section 148A was brought within the provisions of Section 151A of the Income Tax Act, 1961.

25. The main purpose of faceless assessment was to eliminate direct interface between a tax payer and the Officers of the Income Tax Department in the matter of assessments under Section 143(3A) to Section 143(3C) of the Income Tax Act, 1961 with effect from 01.04.2018.

26. Both Section 144B of the Income Tax Act, 1961 and Section 151A of the Income Tax Act, 1961 deal with Faceless Assessments.

27. When Section 151A of the Income Tax Act, 1961 was inserted into the Income Tax Act, 1961 vide Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 with effect from 01.11.2020, the Central Government was empowered to make a Scheme for Faceless Assessment even where income has escaped assessment under Section 148 of the Income Tax Act, 1961.

28. It has to be borne in mind that though Section 151A of the Income Tax Act, 1961 was inserted with effect from **01.11.2020**, it did not include proceedings under Section 148A of the Income Tax Act, 1961. Only with effect from 01.04.2021, vide amendment in Finance Act, 2021, proceedings under Section 148A was brought within the purpose of Section 151A of the Income Tax Act,

1961.

29. Section 151A of the Income Tax Act, 1961 reads as under:-

"***Section 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. *optimisingutilisation 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."

* Inserted by the Finance Act, 2021 with effect from 01.04.2021.

30. Section 144B of the Income Tax Act, 1961 inserted vide Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 with effect from 01.04.2021 and amended vide Finance Act, 2021 with effect from 01.04.2021 was further amended/replaced vide Finance Act, 2022 with effect from 01.04.2022.

31. When Section 144B of the Income Tax Act, 1961 was introduced with effect from 01.04.2021 vide Finance Act, 2021, Faceless Assessment was confined to:-

i) "Assessment" under Section 143(3) (Regular Scrutiny Assessment); and

ii) under Section 144 of the Income Tax Act, 1961 (Best Judgment Assessment).

32. Under Section 144B(2) of the Income Tax Act, 1961 inserted vide Finance Act, 2021 with effect from 01.04.2021, Faceless Assessment was to be made only in respect of such,

1. territorial area; or
2. person; or
3. class of person; or
4. income; or
5. class of incomes; or
6. cases; or

7. class of cases;
as may be specified by the Board.

33. Section 144B(2) of the Income Tax Act, 1961 was confined to the following 4 instances:-

a. where the notice under section 143(2) of the Act was / is issued by the (erstwhile) NeAC or by the NaFAC;
b. where the assessee has furnished her / his return of income under section 139 or in response to a notice issued under section 142(1) or section 148(1); and a notice under section 143(2) of the Act, has been issued by the Assessing Officer or the Prescribed Income-tax Authority, as the case may be;
c. where the assessee has not furnished her / his return of income in response to a notice issued under section 142(1) of the Act by the Assessing Officer;
d. where the assessee has not furnished his / her return of income under section 148(1) of the Act and a notice under section 142(1) of the Act has been issued by the Assessing Officer.

34. In the exercise of power conferred under Section 143(3A) of the Income Tax Act, 1961, the Central Government modified the E-Assessment Scheme, 2019 that was in force earlier by Faceless Assessment Scheme, 2019. The E-Assessment Scheme, 2019 was substituted to read as Faceless Assessment by Notification No.2745(E) dated 30.08.2020 with effect from 13.08.2020.

35. When Section 144B(2) of the Income Tax Act, 1961 was inserted vide Finance Act, 2021 with effect from **01.04.2021**, an order under sub-section (2) to Section 144B of the Income Tax Act, 1961 was issued by the Board on **31.03.2021**.

36. Text of the above Order dated **31.03.2021** of the Board issued under sub-section (2) of Section 144B of the Income Tax Act, 1961 reads as under:-

> *"In pursuance of sub-section (2) of Section 144B of the Income-tax Act, 1961 (hereinafter referred to as "the Act"), the Central Board of Direct Taxes hereby specifies that all the assessment proceedings pending as on 31.03.2021 and the assessment proceedings pending as on 31.03.2021 and the assessment proceedings initiated on or after 01.04.2021 (other than those in the Central Charges and International Taxation Charges) which fall under the following class of cases shall be completed under section 144B of the Act:-*
>
> a. *where the notice under section 143(2) of the Act was / is issued by the (erstwhile) NeAC or by the NaFAC;*
>
> b. *where the assessee has furnished her / his return of income under section 139 or in response to a notice issued under section 142(1) or section 148(1); and a notice under section 143(2) of the Act, has been issued by the Assessing Officer or the Prescribed Income-tax Authority, as the case may be;*
>
> c. *where the assessee has not furnished her / his return of income in response to a notice issued under section 142(1) of the Act by the Assessing Officer;*
>
> d. *where the assessee has not furnished his / her return of income under section 148(1) of the Act and a notice under section 142(1) of the Act has been issued by the Assessing Officer.*
>
> *2. This order shall come into force with effect from the 1st day of April,*

2021."

37. Vide Order bearing Ref.F.No.187/3/2020-ITA-I dated 13.08.2021, the Central Board of Direct Taxes, has directed that all the Assessment Orders shall be passed by the National Faceless Assessment Centre (NaFAC) under Section 144B of the Act, except as under:-

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

38. In partial modification of the said Order, bearing Ref.F.No.187/3/2020-ITA-I dated 13.08.2021, in addition to exceptions (i) and (ii) provided in Paragraph 2 of the above Order, the Central Board of Direct Taxes in exercise of powers under Section 119 of the Act, added the following exception vide Order/Letter F.No.225/97/2021/ITA-II dated 06.09.2021:-

> *iii. Assessment Orders in cases where pendency could not be created on ITBA because of technical reasons or cases not having a PAN, as the case may be.*

39. The Board further clarified that assessment in cases transferred by the Principal Chief Commissioner or the Principal Director General in charge of

National Faceless Assessment Centre (NaFAC) u/s 144B(8) of the Act shall be handled as per the procedure specified in the letter F.No.225/97/2021/ITA-II dated 06.09.2021.

40. A reading of Section 151A of the Income Tax Act, 1961 indicates that with a view to impart greater efficiency, transparency and accountability, the Central Government, may make a Scheme by notification, for the purposes of:-

1	i. Assessment; ii. Reassessment; or iii. Re-computation under Section 147 or
2	Issuance of notice under section 148; or
3	Conducting of enquiries; or
4	Issuance of show-cause notice; or
5	Passing of order under section 148A; or
6	Sanction for issue of such notice under section 151

41. The scheme is intended to -

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

b. *Optimize the utilisation of the resources through economies of scale and functional specialisation;* and

c. *by introducing a team-based assessment, reassessment, re-*

computation or issuance or sanction of notice with dynamic jurisdiction.

42. The expression "**or conducting of enquiries or issuance of show-cause notice or passing of order under section 148A**" was inserted vide Finance Act, 2021 with effect from 01.04.2021. In other words, Sl.No.3 to 5 were introduced only with effect from 01.04.2021 vide Finance Act, 2021.

43. To implement the statutory mandate of Section 151A of the Income Tax Act, 1961, the Central Board of Direct Taxes has now issued **e-Assessment of Income Escaping Assessment Scheme, 2022** vide Notification No.18/2022/F.No. 370142/16/2022-TPL (Part 1) dated 29.03.2022.

44. The **e-Assessment of Income Escaping Assessment Scheme, 2022** also defines the expression "**automated allocation**" to mean an algorithm for randomized allocation of cases, by using suitable technological tools, including artificial intelligence and machine learning, with a view to optimize the use of resources.

45. Text of Notification No.18/2022/F.No.370142/16/2022-TPL (Part-1) dated 29.03.2022 is reproduced 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 allocation 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 or re-computation 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 144B of the Act with *reference to making assessment or reassessment of total income or loss of assessee.*

[Notification No.18/2022/F.No.370142/16/2022-TPL (Part 1)]

SHEFALI SINGH, Under Secy."

46. A reading of the above **e-Assessment of Income Escaping Assessment Scheme, 2022** indicates that although it is intended to implement to the object of Section 151A of the Income Tax Act, 1961, it is not intended to apply either from the stage of the issuance of notice under Section 148A(b) or upto the stage of passing order under Section 148A(d) of the Income Tax Act, 1961.

47. It implies that only after an order under Section 148A(d) of the Income Tax Act, 1961 is passed, the further assessment has to be under the **e-Assessment of Income Escaping Assessment Scheme, 2022** and assessment, reassessment or re-computation under Section 147 of the Income Act, 1961 and issuance of notice under Section 148 of the Income Tax Act, 1961 shall be through automated allocation, in accordance with risk management strategy formulated by the Board as referred to in Section 148 of the Income Tax Act, 1961 for issuance of notice, and in a faceless manner, to the extent provided in

Section 144B of the Income Tax Act, 1961 with reference to making assessment or reassessment of total income or loss of assessee.

48. As per the **e-Assessment of Income Escaping Assessment Scheme, 2022,** only assessment, reassessment or re-computation under Section 147 of the Income Tax Act, 1961 and issuance of notice under Section 148 of the Income Tax Act, 1961 shall be through automated allocation, in accordance with risk management strategy formulated by the Board as referred to in Section 148 of the Income Tax Act, 1961 for issuance of notice, and in a faceless manner, to the extent provided in Section 144B of the Income Tax Act, 1961 with reference to making assessment or reassessment of total income or loss of the assessee.

49. Though, Section 151A of the Income Tax Act,1961 has been amended, to include the faceless method for **conducting of enquiries or issuance of show-cause notice or passing of order under section 148A**" vide Finance Act, 2021 with effect from 01.04.2021, the above Scheme is confined only to the following instances namely:-

i. *assessment, reassessment or re-computation under section 147 of the Act,*
ii. *issuance of notice under section 148 of the Act.*

50. However, no notification has been issued under Section 151A of the Income Tax Act, 1961, to make the proceedings faceless from the stage of notice under Section 148A(d) of the Income Tax Act, 1961 upto the stage of passing of order under Section 148A(d) of the Income Tax Act, 1961.

51. Section 151A of the Income Tax Act, 1961 contemplates sanction for issuance of notice by the specified authority as mentioned in Section 148 and Section 148A of the Income Tax Act, 1961. I shall refer to the same in the course of this order.

52. Section 144B of the Income Tax Act, 1961 as inserted vide Finance Act, 2021 with effect from 01.04.2021 underwent further changes with effect from 01.04.2022 vide Finance Act, 2022.

53. It now includes proceedings contemplated under Section 147 of the Income Tax Act, 1961 as amended with effect from 01.04.2021 in case income escaping assessment.

54. Even under the amended Section 144B of the Income Tax Act, 1961 as in force with effect from 01.04.2022, faceless proceedings under Section 148A of the Income Tax Act, 1961 is not contemplated. Only proceedings after passing of order under Section 148A(d) of the Income Tax Act, 1961, with a issuance of Notice under Section 148 of the Income Tax Act, 1961, assessment, reassessment and re-computation of income under Section 147 of the Income Tax Act, 1961 is contemplated. It is subject to Section 148 to Section 153 of the Income Tax Act, 1961.

55. Text of Section 147 of the Income Tax Act, 1961 as it stand now is reproduced below for the sake of clarity:-

> *"**147. Income Escaping Assessment**.*
>
> *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 recomputed 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 this 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."

56. Text of Section 144B of the Income Tax Act, 1961 was amended vide Finance Act, 2022 with effect from 01.04.2022 reads as under:-

*"**144B. Faceless Assessment**.*

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 (1), 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 assess ment 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 the Nathe 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 Face less 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 im his case should not be completed to the best of its judgment;

x) the assessee shall, within the time specified in the notice referred toin 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 the final assessment *order in accordance with such draft order, which order and 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 the 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;

xxvi) 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;

xxvii) 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;

xxviii) 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) to (10)...............”

57. Issuance of notice under Section 148 of the Income Tax Act, 1961, can be in a faceless manner to the extent provided in Section 144B of the Act with reference to making assessment or reassessment of total income of loss of an assessee.

58. However, no corresponding notification has been issued to implement to the mandate of the above amendment by virtue of a notification under Section 151 and Section 151A(1) of the Income Tax Act,1961 as inserted into the Income Tax Act, 1961 vide Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 till date.

59. This position continues even after 01.04.2022 after Section 144B of the Income Tax Act, 1961 was amended vide Finance Act, 2022 with effect from 01.04.2022 even though Section 151A of the Income Tax Act, 1961 had been amended to include a Scheme in the Official Gazette by a notification of the

Central Government for the purposes of conducting of enquiries or issuance of Show Cause notice or passing of order under Section 148A of the Income Tax Act, 1961.

60. Only vide amendment to Section 144B and Section 151A of the Income Tax Act, 1961 with effect from 01.04.2021, an attempt was made to make assessment in a faceless manner even for conducting of enquiries, or issuance of Show Cause Notice or passing of Order under Section 148A of the Income Tax Act, 1961.

61. Further, issuance of a notice under Section 148 of the Income Tax Act, 1961 shall be with the approval of the Specified Authority as is contemplated under Section 151 of the Income Tax Act, 1961.

62. Thus, **assessment under Section 143(3), Section 144 and assessment and re-assessment under Section 147 of the Income Tax Act, 1961** can be in a Faceless manner in terms of Section 144B of the Income Tax Act, 1961.

63. However, there is no embargo on the Jurisdictional Assessing Officer under the Scheme of the Act, to issue notice either under Section 148A(b) or for

passing Order under Section 148A(d) of the Income Tax Act, 1961 in absence of amendment to the **e-Assessment Escaping Assessment Scheme, 2022** vide Notification No.18/2022/F.No.370142/16/2022-TPL (Part 1) dated 29.03.2022 issued under Section 144B of the Income Tax Act, 1961.

64. Once, an order under Section 148A(d) of the Income Tax Act, 1961 is passed, the "Assessing Officer" as defined in Section 2(7A) of the Income Tax Act, 1961 read with Section 120 of the Income Tax Act, 1961, has to obtain an approval or permission from the "Specified Officer" to proceed further to issue notice under Section 148 of the Income Tax Act, 1961. This is evident from a conjoint reading of Section 148A and 151 of the Income Tax Act, 1961.

65. The expression "Assessing Officer" has been defined in Section 2(7A) of the Income Tax Act, 1961. Section 151 of the Income Tax Act, 1961 has listed out the "Specified Officer" for the purpose of Section 148 and 148A of the Income Tax Act, 1961. For the sake of clarity, these provisions from the Income Tax Act, 1961 are reproduced below:-

Section 2.- In this Act, unless the context otherwise requires,-	**Section 151: Sanction for issue of notice.- Specified Authority for the purposes of Section 148 and 148A shall be,-**
(7A) **"Assessing Officer"** means the Assistant Commissioner or Deputy Commissioner or Assistant Director or Deputy Director or the Income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (1) or sub-section (2) of section 120 or any other provision of this Act, and the Additional Commissioner or Additional Director or Joint Commissioner or Joint Director who is directed under clause (b) of sub-section (4) of that section to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this Act;	i. Principal Commissioner or Principal Director or Commissioner or Director, if three years or less than three years have elapsed from the end of the relevant assessment year; ii. Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General, if more than three years have elapsed from the end of the relevant assessment year. Provided that the period of three years for the purposes of clause (i) shall be computed after taking into account the period of limitation as excluded by the third or fourth or fifth provisos extended by the sixth proviso to sub-section (1) of section 149.

66. Prior approval/permission from the "Specified Authority" as is contemplated under Section 148A(a) of the Income Tax Act, 1961 is only for issuance of notice under Section 148 of the Income Tax Act, 1961 by an "Assessing officer".

67. Handing over of the case to the Faceless Authority can take place only thereafter. This is evident from a reading of Section 148A(a) of the Income Tax

Act, 1961 under the Scheme of the Act read with **e-Assessment of Income Escaping Assessment Scheme, 2022** vide Notification No.18/2022/F.No. 370142/16/2022-TPL (Part 1) dated 29.03.2022, prior approval is not required prior to the stage of issuance of notice under Section 148 of the Income Tax Act, 1961.

68. For the sake of clarity, Section 148A of the Income Tax Act, 1961 is also reproduced below:-

> ***"Section 148A**: **The Assessing Officer shall, before issuing any notice under Section 148**,-*
>
> *b. conduct any enquiry, if required, with the prior approval of **specified authority**, with respect to the information which suggests that the income chargeable to tax has escaped assessment;*
>
> *c. provide an opportunity of being heard to the assessee, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than seven days and but not exceeding thirty days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per clause (a);*
>
> *d. consider the reply of assessee furnished, if any, in response to the show-cause notice referred to in clause (b);*
>
> *e. decide, on the basis of material available on record including reply of the assessee, whether or not it is a fit case to issue a notice under section 148, by passing an order, with the prior approval of specified authority, within one month from the end of the month in which the reply referred to in clause (c) is received by him, or*

where no such reply is furnished, within one month from the end of the month in which time or extended time allowed to furnish a reply as per clause (b) expires:

Provided that the provisions of this section shall not apply in a case where,-

b. *a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A in the case of the assessee on or after the 1st day of April, 2021; or*

c. *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 in a search under section 132 or requisitioned under section 132A, in the case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or*

d. *the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner of Commissioner that any books of account or documents, seized in a search under section 132 or requisitioned under section 132A, in case of any other person on or after the 1st day of April, 202, pertains or pertain to, or any information contained therein, relate to, the assessee; or*

e. *the Assessing Officer has received any information under the scheme notified under section 135A pertaining to income chargeable to tax escaping assessment for any assessment year in the case of the assessee.*

***Explanation**.- For the purposes of this section, specified authority means the specified authority referred to in section 151."*

69. Thus, once an order under Section 148(d) of the Income Tax Act, 1961 is passed by the Jurisdictional Assessing Officer, the Assessment has to be thereafter in terms of Section 144B read with Section 151A of the Income Tax Act, 1961 read with **e-Assessment of Income Escaping Assessment Scheme, 2022** vide Notification No.18/2022/F. No.370142/16/2022-TPL (Part 1) dated

29.03.2022 in S.O.1466(E) of the Central Board of Direct Taxes with help of risk management strategy formulated by the Central Board of Direct Taxes as referred in Section 148 of the Income Tax Act, 1961.

70. In case, the Specified Authority directs the Assessing Officer under Section 151A of the Income Tax Act, 1961 for a faceless assessment by a faceless authority, under Section 144B of the Income Tax Act, 1961, the system will have to allocate the case to the Faceless Assessment Authority for faceless assessment.

71. The Division Bench of the Bombay High Court in Paragraph No.35 in "**Hexaware Technologies Ltd.** Vs. **Assistant Commissioner of Income-tax, Circle 15(1)(2),** [2024] 162 taxmann.com 225 (Bombay)", has also held that a case can be allocated randomly to any Officer who would then have jurisdiction to issue the notice under Section 148 of the Income Tax Act, 1961. Paragraph No.35 is reproduced below:-

> *"35. Further, in our view, there is no question of concurrent jurisdiction of the JAO and the FAO for issuance of reassessment 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.****"*

72. The Delhi High Court in Paragraph Nos.19 and 20 in "**SABH Infrastructure Ltd.** Vs. **Assistant Commissioner of Income tax,** [2018] 99 taxmann.com 409 (Delhi)", has merely given few guidelines to be followed by the Income Tax Department. It has held that while communicating the reasons for reopening the assessment, the copy of the standard form used by the Assessing Officer for obtaining the approval of the Superior Officer should itself be provided to the assessee.

73. This would contain the comment or endorsement of the Superior Officer with his name, designation and date. In other words, merely stating the reasons in a letter addressed by the Assessing Officer to the assessee is to be avoided. It has further held that the reasons to believe ought to spell out all the reasons and grounds available with the Assessing Officer for reopening the assessment- especially in those cases where the first proviso to Section 147 is attracted. A similar view was taken in "**Tia Enterprises (P.) Ltd** Vs. **Income-tax Officer,** [2024] 158 taxmann.com 63 (Delhi)".

74. The Telangana High Court in Paragraph No.25 in "**Kankanala Ravindra Reddy** Vs. **Income-tax Officer,** [2023] 156 taxmann.com 178 (Telangana)", held that "*A plain reading of the aforesaid two notifications issued by the Central Board of Direct Taxes dated 28.03.2022 and 29.03.2022, it would clearly indicate that the Central Board of Direct Taxes was very clear in its mind when it framed the aforesaid two schemes with respect to the proceedings to be drawn under section 148A, that is to have it in a faceless manner. There were two mandatory conditions which were required to be adhered to by the Department, firstly, the allocation being made through the automated allocation system in accordance with the risk management strategy formulated by the Board under*

section 148 of the Act. Secondly, the re-assessment has to be done in a faceless manner to the extend provided under section 144B of the Act."

75. The Gauhati High Court in "**Ram Narayan Sah** Vs. **Union of India,** **[**2024] 163 taxmann.com 478 (Gauhati)", has once again underscored the point that *the scope of the scheme is for the purposes of the assessment, re-assessment, computation under Section 147 and for issuance of notices under 148 and which shall be done through automated allocations by the department.*

76. In the present case, the notice under Section 148A of the Income Tax Act, 1961 was issued on **30.01.2024** by the 1st respondent Jurisdictional Assessing Officer for the Assessment Year 2017-2018.

77. Thus, it is clear that there is no embargo under Section 151A of the Income Tax Act, 1961 read with **e-Assessment of Income Escaping Assessment Scheme, 2022** vide Notification No.18/2022/F.No.370142/16/2022-TPL (Part 1) on the Jurisdictional Assessing Officer either to issue a notice under Section 148A(b) of the Income Tax Act, 1961 or to pass an order under Section 148A(d) of the Income Tax Act, 1961 as amended under Section 151A of the Income Tax

Act, 1961 read with Notification No.18/2022/F.No.370142/16/2022-TPL (Part 1). In this case, notice dated 27.03.2024 has been issued by the 1st respondent under Section 148 of the Income Tax Act, 1961.

78. Since Notice dated 27.03.2024 under Section 148 of the Income Tax Act, 1961 has been issued in time, proceedings cannot be held without jurisdiction. The assessment alone should be completed by the Faceless Authority.

79. In this case, more than three years have lapsed from the end of the relevant Assessment Year i.e., Assessment Year 2017-2018. Under Sub-Clause (1) (b) to amended Section 149 of the Income Tax Act, 1961 as in force with effect from 01.04.2021, an Assessing Officer can initiate proceedings under Section 148 of the Income Tax Act, 1961, if the Assessing Officer, has in his possession, books of account or other documents or evidence which reveal that the income is chargeable to tax, represented in the form of -

i. an asset;
ii. expenditure in respect of a transaction or in relation to an event or occasion; or
iii. an entry or entries in the books of account, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more.

80. Amended Section 149 of the Income Tax Act, 1961 with effect from 01.04.2021 is reproduced below:-

*"**149. Time Limit for Notice**:*

(1) No notice under Section 148 shall be issued for the relevant assessment year,-

a. if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);

b. if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of-

i. an asset;

ii. expenditure in respect of a transaction or in relation to an event or occasion; or

iii. an entry or entries in the books of account,

which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more.

Provided that no notice under Section 148 shall be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April, 2021, if a notice under Section 148 or Section 153A or Section 153C could not have been issued at that time on account of being beyond the time limit specified under the provisions of clause (b) of sub-section (1) of this Section or Section 153A or Section 153C, as the case may be, as they stood immediately before the commencement of the Finance Act, 2021.

Provided further that the provisions of this sub-section shall not apply in a case, where a notice under Section 153A, or Section 153C read with Section 153A, is required to be issued in relation to a search initiated under Section 132 or books of account, other documents or any assets requisitioned under Section 132A, on or before the 31st day of March, 2021.

Provided also that for the purposes of computing the period of *limitation as per this section, the time or extended time allowed to the assessee, as per show-cause notice issued under clause (b) of Section 148A or the period during which the proceeding under Section 148A is stayed by an order or injunction of any Court, shall be excluded.*

Provided also that where immediately after the exclusion of the period referred to in the immediately preceding proviso, the period of limitation available to the Assessing Officer for passing an order under clause (d) of Section 148A is less than seven days, such remaining period shall be extended to seven days and the period of limitation under this sub-section shall be deemed to be extended accordingly.

Explanation.- For the purposes of clause (b) of this sub-section, "asset" shall include immovable property, being land or building or both, shares and securities, loans and advances, deposits in bank account."

81. The 1st Respondent has concluded that tax escaped assessment was Rs. 1,30,36,000/-.

82. As far as limitation under Section 149 of the Income Tax Act, 1961 is concerned, under the New Regime, notice has to be issued either within three years or within ten years.

83. 1st Proviso to Section 149 of the Income Tax Act, 1961 is not attracted as the Assessing Officer was justified to issue Notice under Section 148 of the

Income Tax Act, 1961 as it stood prior to 01.04.2021.

84. The 1st Respondent Jurisdictional Assessing Officer was well within his / her jurisdiction to issue not only a Notice under Section 148A(b) of the Income Tax Act, 1961 but also passing order under Section 148A(d) of the Income Tax Act, 1961. The said Officer was also entitled to issue a Notice under Section 148 of the Income Tax Act, 1961. The assessment alone has to be referred to the National Faceless Assessment Centre under Section 144B of the Income Tax Act, 1961 read with **e-Assessment of Income Escaping Assessment Scheme, 2022.**

85. In view of the above discussion, this Court does not find any infirmity in the Impugned Order / Notice dated 27.03.2024 issued by the 1st Respondent under Section 148A(d) of the Income Tax Act, 1961 in order to interfere with the same.

86. Accordingly, this Writ Petition stands dismissed. No costs. Connected Writ Miscellaneous Petitions are closed.

24.01.2025

Neutral Citation : Yes / No

Apd/arb

To:

1.The Income Tax Officer,
Non Corporate Ward-2(3),
No.2, V.P.Rathinasamy Nadar Road,
Central Revenue Building,
Bibikulam, Madurai,
Tamil Nadu – 625 002.

2.The Chief Commissioner of Income-Tax,
No.2, V.P.Rathinasamy Nadar Road,
Central Revenue Building,
Bibikulam, Madurai,
Tamil Nadu – 625 002.

C.SARAVANAN, J.

Apd/arb

Pre-delivery Order in
W.P.(MD) No.13626 of 2024

24.01.2025