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IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

ITA No.11 of 2026

Date of decision: 19.11.2026

Principal Commissioner of Income Tax (Central) …..Appellant

Versus

Anup Kumar Aggarwal …..Respondent

Coram

The Hon'ble Mr. Justice Ajay Mohan Goel, Judge.
The Hon'ble Mr. Justice Yogesh Jaswal, Judge.

Whether approved for reporting?[1]

For the Appellant : M/s Neeraj Sharma and Ishaan Kashyap, Advocates.

For the Respondent : Mr. Vishal Mohan, Senior Advocate with Mr. Praveen Sharma, Advocate.

Ajay Mohan Goel, Judge (Oral)

Heard.

2. **Admit** on the following substantial question of law:-

"Whether the findings returned by the learned Income Tax Appellate Tribunal vide order dated 24.11.2025 that the notice issued to the assesse under Section 148 of the Income Tax Act, 1961 was not issued in accordance with law are legally sustainable findings?"

3. With the consent of the parties, the appeal is taken up for final consideration today itself.

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[1]***Whether the reporters of the local papers may be allowed to see the Judgment?Yes***

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4. By way of this appeal, the appellant has assailed order dated 24.11.2025, passed by the Income Tax Appellate Tribunal, in terms whereof, the appeal preferred by the present respondent against the order of learned Commissioner of Income Tax (Appeals)-3, Gurgaon, dated 31.07.2025, in a matter of an assessment framed by Assessing Officer (AO) under Section 147 of the Income Tax Act, 1961 on 12.03.2025 was allowed.

5. Learned counsel for the appellant submitted that the impugned order is not sustainable in the eyes of law, as learned Tribunal erred in not appreciating that the notice, issued under Section 148 of the Income Tax Act, 1961 was a valid notice, issued by the Competent Authority. Learned counsel drew the attention of the Court to the provisions of Section 148 of the Income Tax Act, 1961, as also an order of Ministry of Finance, Department of Revenue (Central Board of Direct Taxes), dated 06.09.2021 on the subject "***Order under Section 119 of the Income Tax Act, 1961 (the Act) providing exclusions to Section 144-B of the Act***", as well as Notification S.O. 1466 (E) [No.370142/16/2022-TPL (PART1], dated 29.03.2022 to substantiate his contention. Learned counsel further submitted that the findings returned by the learned Tribunal that the notice, which culminated in the order challenged before the Appellate Authority, was not issued by a faceless Assessing Authority, are perverse finding, because, there was no

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such necessity in the present case and, therefore, the appeal deserves to be allowed. No other point was urged.

6. On the other hand, learned Senior Counsel for the respondent also referred to the order under challenge as well as the Notification and the Order relied upon by the learned counsel for the appellant and submitted that notification dated 29.03.2022, which is a statutory notification is self-speaking as to how a notice under Section 148 of the Income Tax Act has to be issued and as in the present case, on the face of it, the notice which was issued under Section 148 of the Income Tax Act, 1961 was not in consonance with the provisions of Clause3 of Notification dated 29.03.2022 i.e., E-Assessment of Income Escaping Assessment Scheme, 2022, there is no perversity in the impugned order.

7. We have heard learned counsel for the appellant as also learned Senior Counsel and we have also carefully gone through the order under challenge as well as the other documents on record. We have also carefully gone through the order dated 06.09.2021 as well as notification dated 29.03.2022, relied upon by learned counsel for the appellant.

8. In terms of the impugned order, learned Tribunal has quashed the impugned assessment on the ground that as the Notice under Section 148 of the Act, was not issued by the Competent Authority in terms whereof, the case was reopened, therefore, the

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same was bad in law and in derogation of the provisions of Section 151-A of the Income Tax Act, 1961, read with CBDT Notification No. 18/2022 dated 29.03.2022, which mandated issuance of a notice by a Faceless Assessing Officer only.

9. Learned Tribunal held that the notice issued under Section 148 dated 29.12.2023 was issued by G. Poojitha DCIT/ACIT (Central) Shimla, who happened to be the jurisdictional Assessing Officer (JAO) of the assesse and as this fact was not controverted by the Revenue before it, therefore, on this count, the appeal was allowed by the learned Tribunal.

10. Notification No. 18/2022 dated 29.03.2022 is being reproduced by us hereinbelow, as it is a short notification:-

> “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:-
>
> Short title and commencement
>
> 1. (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.
>
> Definitions
>
> 2. (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

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> 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.
>
> Scope of the Scheme
>
> 3. For the purpose of this Scheme,-
>
> (a) assessment, reassessment or recomputation under section 147 of the Act,
>
> (b) issuance of notice under section 148 of the Act,
>
> shall be through automated allocation, in accordance with risk management strategy formulated by the Board as referred to in section 148 of the Act for issuance of notice, and in a faceless manner, to the extent provided in section 144B of the Act with reference to making assessment or reassessment of total income or loss of assesse."

11. In terms of this notification, which is statutory in nature, as the E-Assessment of Income Escaping Assessment Scheme, 2022 was notified by the Central Government, in exercise of powers conferred by sub-sections (1) and (2) of Section 151-A of the Income Tax Act, 1961, issuance of notice under Section 148 of the Income Tax Act, has to 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 assesse.

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12. Thus, the notification is unambiguous and clear that the notice under Section 148 has to be issued through automated allocation and in a faceless manner.

13. In the present case, as has been held by the learned Tribunal also, the notice under Section 148 was issued by G. Poojitha DCIT/ACIT (Central) Shimla, who happened to be the jurisdictional Assessing Officer (JAO) of the assesse and, thus, was not a Faceless Assessing Officer. This demonstrates that the notice in the present case was not issued through automated allocation in a faceless manner, but was issued in contravention of Clause 3 of the E-Assessment of Income Escaping Assessment Scheme, 2022. This is exactly what has been held by the learned Tribunal.

14. During the course of his submissions, learned counsel for the appellant could not demonstrate that these findings returned by the Income Tax Tribunal were perverse or not borne out from the record.

15. Therefore, obviously, as the notice which was issued to the assesse, in the present case, under Section 148 of the Income Tax Act, 1961, was in derogation of Clause-3 of notification dated 29.03.2022, the findings returned to this effect by the Tribunal are correct findings and they do not call for any interference. Learned Tribunal held correctly that the notice was not issued in accordance with law. It rightly thereafter allowed the appeal by quashing the

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assessment order. Substantial question of law is answered accordingly.

16. In light of the findings returned hereinabove, the present appeal is dismissed, so also miscellaneous applications, if any.

(Ajay Mohan Goel)
Judge

(Yogesh Jaswal)
Judge

19th November, 2026.
(**yogesh**)