आयकर अपीलीय अधिकरण, हैदराबाद पीठ

IN THE INCOME TAX APPELLATE TRIBUNAL

Hyderabad ' A ' Bench, Hyderabad

श्री विजय पाल राव, उपाध्यक्ष एवं

श्री मधुसूदन सावडिया, लेखा सदस्य के समक्ष ।

Before Shri Vijay Pal Rao, Vice-President

A N D

Shri Madhusudan Sawdia, Accountant Member

आ.अपी.सं /**ITA No. 1987/Hyd/2025**

(निर्धारण वर्ष/Assessment Year: 2013-14)

Smt. Anuradha Chennu TIRUPATI PAN: AULPC4488K	Vs.	Dy. CIT Circle 1(1) TIRUPATI
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri K.A. Sai Prasad, CA	
राजस्व द्वारा/Revenue by::	Smt. K. Haritha, CIT(DR)	
सुनवाई की तारीख/Date of hearing:	23/04/2026	
घोषणा की तारीख/Pronouncement:	29/05/2026	

आदेश/ORDER

Per Madhusudan Sawdia, A.M.:

This appeal is filed by Smt. Anuradha Chennu ("the assessee"), feeling aggrieved by the order passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)") dated 22.09.2025 for the A.Y.2013-14.

2. The assessee has raised the following grounds of appeal:

1. The order u/s 250 of the Act by the Ld. Commissioner of Income Tax (Appeals) is not correct either on facts or in law, and is therefore liable to be set aside.

2. The Ld. Commissioner (Appeals) failed to appreciate that the assessment order dated 28-09-2021, passed u/s 147 for AY 2013-14 is barred by limitation, having been passed beyond the statutory period of twelve months from the end of the financial year in which the notice u/s 148 dated 23-09-2019 was served, thereby rendering the action of the Ld. Assessing Officer contrary to section 153 and the order void ab initio and without jurisdiction.

3. The Ld. Commissioner (Appeals) erred in denying exemption u/s 54F by holding that 50 flats received under the JDA do not constitute "one residential house", without appreciating that the appellant's claim is fully supported by binding jurisdictional judicial decisions which permit exemption for multiple units arising from a single piece of land/residential house under a development agreement, and the appellant is therefore entitled to the full relief as per law.

4. The Ld. Commissioner (Appeals) erred in refusing to admit the claim u/s 54F for lack of supporting documents, though all construction-related records, possession details and development evidence are duly available and could not be filed earlier due to technical non-receipt of notice u/s 250, and the appellant now seeks admission of such material before this Hon'ble Tribunal.

5. Without prejudice, the Ld. Commissioner (Appeals) erred in upholding the capital gains computation wherein the Ld. Assessing Officer adopted a rate of Rs. 1200/- per sq. ft. for cost of construction as per survey operation conducted at builder's premises in September 2015, completely disregarding the fact that the agreed rate as per the JDA dated 21-01-2013 was Rs. 800/- per sq. ft.

6. Without prejudice, the Ld. Commissioner (Appeals) failed to appreciate that the appellant has already disclosed and offered to tax the capital gains in the relevant subsequent assessment years upon actual completion and sale of the respective flats and paid the applicable taxes thereon, resulting in no loss or prejudice whatsoever to the Revenue.

7. The appellant craves leave to add, alter, amend or withdraw any of the above grounds at the time of hearing.

3. The assessee has raised the following additional grounds of appeal:

> *"1. On the facts and in the circumstances of the case, the learned NFAC, Delhi erred in assuming jurisdiction under section 151A r.w.s 144B of the Act by issuing show cause notice dated 21.09.2021, whereas the notification issued under section 151A is operative only w.e.f. 29.03.2022 rendering the assessment proceedings without authority of law and liable to be quashed"*
>
> *2. In the absence of any notice/limitation as per provisions of clause iii to section 144B(1), the assumption of jurisdiction prior to 29.03.2022 by FAO is not proper and liable to be quashed".*

4. The Learned Authorized Representative ("Ld. AR") submitted that additional grounds so filed are admissible in view of judgment rendered by the Hon'ble Supreme Court in the case of National Thermal Power Co. Ltd. v. CIT (1998) 229 ITR 383 (SC). The Learned Departmental Representative ("Ld. DR") also did not make any objection for admission of the additional groundss. The prayer for admission of additional ground noted above which are not in memorandum of appeal are being admitted for adjudication in terms of Rule 11 of the Income Tax (Appellate Tribunal) Rules, 1963 owing to the fact that objection raised in additional grounds are legal in nature for which relevant facts are stated to be emanating from the existing records.

5. The brief facts of the case are that the assessee is an individual who had not filed any return of income under section 139 of the Income Tax Act, 1961 ("the Act") for Assessment Year 2013-14. Pursuant to a survey operation conducted in the case of M/s Krishna Infra ("the developer") on 10.09.2014, it came to the knowledge of the Revenue that the assessee had entered into a Joint Development Agreement

("JDA") with the developer on 21.01.2013. As per the said JDA, total 165 flats with developed built-up area of 2,15,555 sq.ft. were to be constructed, out of which 50 flats having constructed area of 66,667 sq.ft. were to be allotted to the assessee against contribution of land. During the course of survey proceedings, the value of constructed area was estimated at Rs.1,200/- per sq.ft. On the basis of the said information, notice under section 148 of the Act was issued by the Learned Assessing Officer ("Ld. Ld. AO") to the assessee on 23.09.2019. In response thereto, the assessee filed return of income on 12.10.2019 declaring total income at Rs.1,00,600/- along with agricultural income of Rs.1,40,900/-. Consequently, notice under section 143(2) of the Act was issued by the Ld. AO on 29.09.2020 to the assessee. After considering the submissions of the assessee, the Ld. AO held that transfer of land had taken place on the date of execution of the JDA itself within the meaning of section 2(47)(v) r.w.s. 53A of the Transfer of Property Act. Accordingly, the Ld. AO computed long-term capital gain in the hands of the assessee by adopting gross consideration at Rs.8,00,00,400/- by applying rate of Rs.1,200/- per sq.ft. on total developed built-up area of 66,667 sq.ft. receivable by the assessee and after allowing deduction towards cost of acquisition of land amounting to Rs.3,13,704/-. Accordingly, the long-term capital gain in the hands of the assessee was computed at Rs.7,96,86,696/-. Finally, the assessment under section 147 r.w.s. 144B of the Act was completed by the Ld. AO on 28.09.2021 assessing the total income of the assessee at Rs.7,97,87,296/- after making addition of Rs.7,96,86,696/- on account of long-term capital gain.

6. Aggrieved by the order of the Ld. AO, the assessee preferred appeal before the Ld. CIT(A). Before the Ld. CIT(A), for the first time, the assessee claimed deduction under section 54F of the Act in respect of 50 flats receivable under the JDA against the long-term capital gain computed by the Ld. AO. However, the Ld. CIT(A) rejected the claim of deduction under section 54F on two grounds. Firstly, the Ld. CIT(A) held that the assessee had not claimed deduction under section 54F before the Ld. AO through revised return and therefore such claim was not allowable. Secondly, the Ld. CIT(A) held that even if deduction under section 54F was allowable, the same could be restricted only to one residential flat and not all 50 flats. The Ld. CIT(A) further observed that the assessee had neither furnished relevant documentary evidence nor proved actual construction or acquisition of the flats. Accordingly, the Ld. CIT(A) sustained the addition made by the Ld. AO and dismissed the appeal of the assessee.

7. Aggrieved by the order of the Ld. CIT(A), the assessee is in appeal before this Tribunal. The assessee has raised an additional grounds challenging the validity of the said assessment on the ground that the notification issued by Central Board of Direct Taxes ("CBDT") under section 151A of the Act, providing for faceless assessment/reassessment, came into effect only from 29.03.2022, and therefore, the FAO did not have jurisdiction to pass the assessment order prior to such date. The Ld. AR further submitted that in the present case, the assessment has been framed under section 147 read with section 144B of the Act by the FAO. It was contended that the jurisdiction to conduct reassessment proceedings in a faceless manner under section 147 of the Act was conferred

only upon issuance of notification under section 151A of the Act, which came into effect from 29.03.2022. Since the impugned assessment order has been passed on 28.09.2021, it was argued that the FAO lacked jurisdiction to complete the reassessment. The Ld. AR submitted that in the absence of a validly notified scheme under section 151A of the Act as on the date of assessment, the proceedings are vitiated and liable to be quashed. Reliance was placed on the decision of the Kolkata Bench of the Tribunal in the case of Meenakshi Mittal Agrawal vs ITO in ITA Nos.111 and 112/Kol/2026 for A.Ys 2014-15 & 2015-16, dated 07.04.2026.

8. Per contra, the Ld. DR submitted that the jurisdiction of the FAO flows from section 144B of the Act, which was already in force at the relevant time and provides a complete mechanism for faceless assessment, including reassessment. The Ld. DR invited our attention section 144B(1)(iii)(a) of the Act and submitted that cases where return is furnished in response to notice issued under section 148 of the Act are specifically covered within the scope of faceless assessment. The Ld. DR further relied upon the judgment of the Hon'ble Telangana High Court in the case of Venkatramana Reddy Patloola Vs. DCIT (W.P No.13353, 16141 and 16877 of 2024) Dated 27.07.2024. The Ld. DR also relied on the decision of this Tribunal in the case of Gangaram Reddy Tekulapalli Vs. ITO in ITA No.786 & 787/Hyd/2024 for the A.Y 2014-15, dated 10.09.2025 to contend that reassessment proceedings must follow the procedure under section 143 and, in faceless regime, such procedure is governed by section 144B of the Act. The relevant portion of the written submission of the Ld. DR is reproduced as under :

Department's submissions on additional ground filed by the assessee

(i) Section 147 is only enabling the reassessment. The procedural section that the final assessment order is to be passed is under section 143(3) or section 144. Thus, the orders is finally passed under section 143(3) or 144 and not under section 147. Numerous judgements on this aspect have been passed by various appeal forums. In this context, coordinate bench judgement in the case of Gangaram Reddy Tekulapalli vs. ITO-2, Hyderabad in ITA Nos.786 & 787/Hyd/2024 (ITAT Hyderabad) is relied upon wherein it was held that 143(2) notice was to be issued compulsorily for 143(3) order read with section 147 of the I.T.Act. Thus, orders u/s 147 do not exist, but only in conjunction with 143(3) or 144.

(ii) In this context, it is to be noted that the notification u/s 143(3A) of the I.T.Act dated 13.08.2020 by the CBDT specifies faceless assessment scheme and includes the reassessment cases too in its scope

(iii) It is to be noted that even prior to the amendment on 01.04.2022, the Section 144B(1) states that assessment under section 143(3) and section 144 is to be done in faceless manner. Section 144B(1)(iii) clearly specified all kinds of situations including those covered by issue of notice u/s 148 where return is filed and where return is not filed, wherein the NFAC is empowered to issue notice that the proceedings will be undertaken under the section. Thus, the authority to pass assessment orders on reopened cases in faceless manner is already provided in the Act, even before the issue of notification dated 29.03.2022 relied upon by the assessee. This is not reproduced in amended section, as 144B(1) now uses the words reassessment, section 147 and 144B(2) refers to all those specified by the Board. Thus amendment to section 144B is only simplifying in nature and the essence or scope of section remains the same and that covers reassessment proceedings prior to and after the amendment to the said section on 01.04.2022.

(3)

(iv) Further, the notification u/s 151A dated 29.03.2022 has two limbs in its scope of the scheme – 3(a) and 3(b). Assessee is relying on 3(a) to state that reassessment could not be done in faceless manner until this notification was given. Most courts when providing judgement on the said notification have clearly mentioned that the revenue's arguments cannot be accepted that the scope of the scheme is only limited to assessment and reassessment, as section 144B already covers the first scenario of 3(a) (assessment and reassessment) and hence, 3(b) is now what is envisaged to be covered – that is of issue of notices. The order of jurisdictional Hon'ble Telangana High Court in the case of Venkata Ramana Reddy Patloola which itself relies on Hexaware judgement of Hon'ble Mumbai High Court has reproduced the Para 36.1 of Hexaware judgement in para 26 of the Hon'ble Telangana High Court order wherein the Hon'ble High Court clearly accepts as under:

> *"What is covered in clause 3(a) of the Scheme is already provided in Section 144B(1) of the Act, which Section provides for faceless assessment and covers assessment, reassessment or computation under section 147 of the Act. Therefore, if revenue's arguments are to be accepted, there is no purpose of framing a Scheme only for clause 3(a) which is any event already covered under batch faceless assessment regime in section 144B of the Act....."*

Thus, the High Courts especially jurisdictional High Court has already accepted that section 144B covers assessment, reassessment and the notification u/s 151A is to cover notices. It may be noted that amendment to section 144B came into effect from 01.04.2022, whereas the notification is dated 29.03.2022 and hence, basically High Courts have accepted pre amended 144B to be covering assessment and reassessment of cases.

In view of the above submissions, it is respectfully submitted that:

- The faceless reassessment proceedings initiated and completed under section 147 read with section 144B are fully supported by the statutory framework as it existed at the relevant time.
- Section 144B, even prior to its amendment(i.e. date of insertion form 01.04.2021), clearly encompassed reassessment proceedings culminating in orders under section 143(3) or section 144.
- The CBDT notification dated 13.08.2020 had already operationalized faceless reassessment.
- The notification under section 151A dated 29.03.2022 is only supplementary in nature and does not govern or restrict the validity of faceless reassessment proceedings conducted earlier.

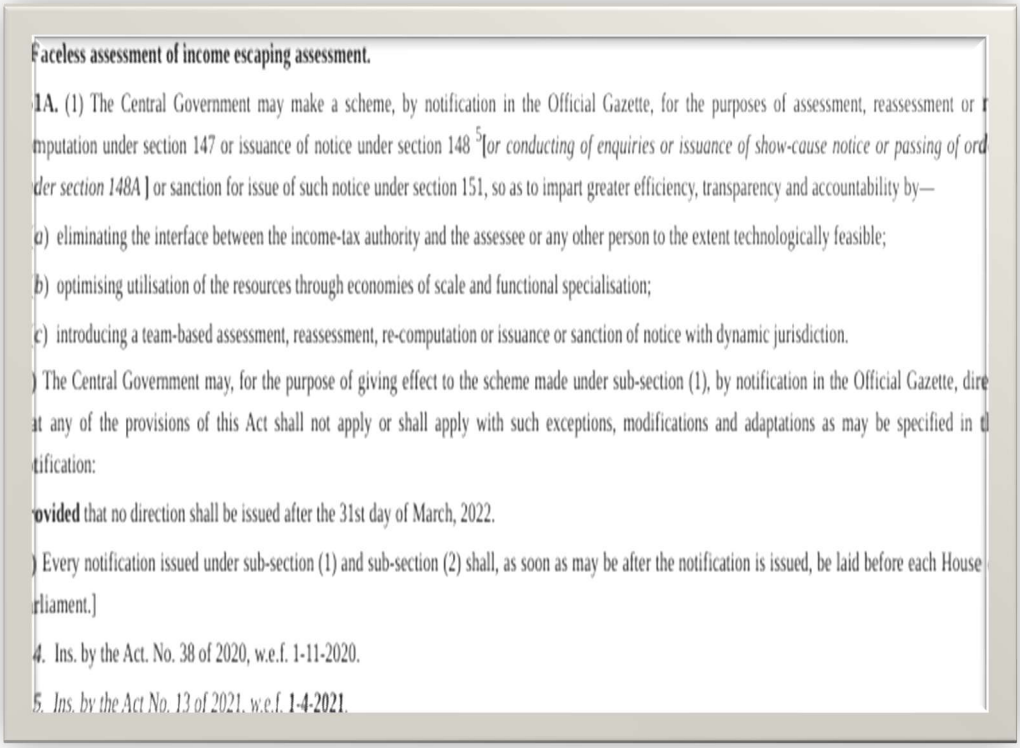
(4)

- Judicial precedents, including those of the jurisdictional High Court, have affirmed that section 144B covers reassessment proceedings even prior to the said notification.

Accordingly, it is submitted that the additional ground raised by the assessee challenging the jurisdiction of NFAC is devoid of merit, legally unsustainable, and liable to be dismissed.

(K.HARITHA),
Commissioner of Income-tax (DR)-1 i/c
A Bench, Hyderabad.

9. We have heard the rival submissions and perused the material available on record including the case laws relied upon. The core issue arising for our consideration out of the additional grounds raised by the assessee is whether the FAO had valid jurisdiction to complete reassessment under section 147 of the Act prior to issuance of Notification No.18/2022 dated 29.03.2022 issued by the CBDT under section 151A of the Act. It is the contention of the assessee that jurisdiction upon the FAO to conduct reassessment proceedings under section 147 arose only after issuance of notification dated 29.03.2022 under section 151A of the Act. According to the assessee, since the impugned reassessment order was passed on 28.09.2021, i.e., prior to issuance of the aforesaid notification, the FAO lacked inherent jurisdiction to pass the reassessment order and therefore the order is liable to be quashed as void ab initio. On the other hand, the Ld. DR has submitted that even prior to issuance of notification dated 29.03.2022 under section 151A, jurisdiction to complete reassessment proceedings in a faceless manner already stood conferred upon the FAO by virtue of section 144B of the Act itself. It was submitted that notification under section 151A was merely supplementary and enabling in nature and did not create jurisdiction for the first time. Before adjudicating the controversy, it would be apposite to examine the scheme of sections 151A and 144B of the Act. The provisions of section 151A of the Act is as under:



Faceless assessment of income escaping assessment.

151A. (1) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of assessment, reassessment or r
mputation under section 147 or issuance of notice under section 148 [5][*or conducting of enquiries or issuance of show-cause notice or passing of ord
der section 148A*] or sanction for issue of such notice under section 151, so as to impart greater efficiency, transparency and accountability by—

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

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

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

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

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

) 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
rliament.]

4. Ins. by the Act. No. 38 of 2020, w.e.f. 1-11-2020.

5. *Ins. by the Act No. 13 of 2021, w.e.f.* **1-4-2021**.

10. On perusal of section 151A, we find that the said provision is essentially an enabling provision empowering the Central Government to frame a scheme by way of notification for (i) assessment, reassessment or re-computation under section 147; (ii) issuance of notice under section 148; (iii) conducting enquiry or issuance of show cause notice under section 148A; (iv) passing order under section 148A; and (v) sanction for issuance of notice under section 151, in a faceless manner to the extent technologically feasible. In exercise of such enabling powers, CBDT issued Notification No.18/2022 dated 29.03.2022, which is to the following effect:

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 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 assessee.

[Notification No. 18/2022/F. No. 370142/16/2022-TPL(Part1]

SHEFALI SINGH, Under Secy.

11. On perusal of clause 3(a) of the above notification, we find that assessment, reassessment or re-computation under section 147 of the Act was directed to be carried out in a faceless manner with effect from 29.03.2022. At first blush, the contention of the assessee appears attractive that jurisdiction for faceless reassessment became operational only from the date of said notification. However, on a deeper examination of the statutory scheme, we are unable to persuade ourselves to accept such proposition. In this regard, we have gone through provisions of section 144B (1) of the Act as it existed at the relevant point of time, which is to the following effect:

[90][**Faceless Assessment.**

144B. *(1) Notwithstanding anything to the contrary contained in any other provisions of this Act, the assessment under sub-section (3) of section 143 or under section 144, in 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 serve a notice on the assessee under sub-section (2) of section 143;

(ii) the assessee may, within fifteen days from the date of receipt of notice referred to in clause (i), file his response to the National Faceless Assessment Centre;

(iii) where the assessee—

(a) has furnished his return of income under section 139 or in response to a notice issued under sub-section (1) of section 142 or under sub-section (1) of section 148, and a notice under sub-section (2) of section 143 has been issued by the Assessing Officer or the prescribed income-tax authority, as the case may be; or

(b) has not furnished his return of income in response to a notice issued under sub-section (1) of section 142 by the Assessing Officer; or

(c) has not furnished his return of income under sub-section (1) of section 148 and a notice under sub-section (1) of section 142 has been issued by the Assessing Officer,

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;

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

(v) where a case is assigned to the assessment unit, it may make a request to 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 certain enquiry or verification by verification unit; and

(c) seeking technical assistance from the technical unit;

(vi) where a request for obtaining further information, documents or evidence from the assessee or any other person has been made by the assessment unit, the National Faceless Assessment Centre shall issue appropriate notice or requisition to the assessee or any other person for obtaining the information, documents or evidence requisitioned by the assessment unit;

(vii) the assessee or any other person, as the case may be, shall file his response to the notice referred to in clause (vi), 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;

(viii) where a request for conducting of certain enquiry or verification by the verification unit has been made by the assessment unit, the request shall be assigned by the National Faceless Assessment Centre to a verification unit in any one Regional Faceless Assessment Centre through an automated allocation system;

(ix) where a request for seeking technical assistance from the technical unit has been made by the assessment unit, the request shall be assigned by the National Faceless Assessment Centre to a technical unit in any one Regional Faceless Assessment Centre through an automated allocation system;

(x) the National Faceless Assessment Centre shall send the report received from the verification unit or the technical unit, based on the request referred to in clause (viii) or clause (ix) to the concerned assessment unit;

(xi) where the assessee fails to comply with the notice referred to in clause (vi) or notice issued under sub-section (1) of section 142 or with a direction issued under sub-section (2A) of section 142, the National Faceless Assessment Centre shall serve upon such assessee a notice under section 144 giving him an opportunity to show-cause, on a date and time to be specified in the notice, why the assessment in his case should not be completed to the best of its judgment;

(xii) the assessee shall, within the time specified in the notice referred to in clause (xi) 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;

(xiii) where the assessee fails to file response to the notice referred to in clause (xi) 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;

(xiv) the assessment unit shall, after taking into account all the relevant material available on the record make in writing, a draft assessment order or, in a case where intimation referred to in clause (xiii) is received from the National Faceless Assessment Centre, make in writing, a draft assessment order to the best of its judgment, either accepting the income or sum payable by, or sum refundable to, the assessee as per his return or making variation to the said income or sum, and send a copy of such order to the National Faceless Assessment Centre;

(xv) the assessment unit shall, while making draft assessment order, provide details of the penalty proceedings to be initiated therein, if any;

(xvi) the National Faceless Assessment Centre shall examine the draft assessment order in accordance with the risk management strategy specified by the Board, including by way of an automated examination tool, whereupon it may decide to—

(a) finalise the assessment, in case no variation prejudicial to the interest of assessee is proposed, as per the draft assessment order and serve a copy of such order and notice for initiating penalty proceedings, if any, to 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; or

(b) provide an opportunity to the assessee, in case any variation prejudicial to the interest of assessee is proposed, by serving a notice calling upon him to show cause as to why the proposed variation should not be made; or

(c) assign the draft assessment order to a review unit in any one Regional Faceless Assessment Centre, through an automated allocation system, for conducting review of such order;

(xvii) the review unit shall conduct review of the draft assessment order referred to it by the National Faceless Assessment Centre whereupon it may decide to—

(a) concur with the draft assessment order and intimate the National Faceless Assessment Centre about such concurrence; or

(b) suggest such variation, as it may deem fit, in the draft assessment order and send its suggestions to the National Faceless Assessment Centre;

(xviii) the National Faceless Assessment Centre shall, upon receiving concurrence of the review unit, follow the procedure laid down in—

(a) sub-clause (a) of clause (xvi); or

(b) sub-clause (b) of clause (xvi);

(xix) the National Faceless Assessment Centre shall, upon receiving suggestions for variation from the review unit, assign the case to an assessment unit, other than the assessment unit which has made the draft assessment order, through an automated allocation system;

(xx) the assessment unit shall, after considering the variations suggested by the review unit, send the final draft assessment order to the National Faceless Assessment Centre;

(xxi) the National Faceless Assessment Centre shall, upon receiving final draft assessment order follow the procedure laid down in—

(a) sub-clause (a) of clause (xvi); or

(b) sub-clause (b) of clause (xvi);

(xxii) the assessee may, in a case where show-cause notice has been served upon him as per the procedure laid down in sub-clause (b) of clause (xvi), furnish his response to the National Faceless Assessment Centre on or before the date and time specified in the notice or within the extended time, if any;

(xxiii) the National Faceless Assessment Centre shall,—

(a) where no response to the show-cause notice is received as per clause (xxii),—

(A) in a case where the draft assessment order or the final draft assessment order is in respect of an eligible assessee and proposes to make any variation which is prejudicial to the interest of said assessee, forward the draft assessment order or final draft assessment order to such assessee; or

(B) in any other case, finalise the assessment as per the draft assessment order or the final draft assessment order and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, alongwith the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment;

(b) in any other case, send the response received from the assessee to the assessment unit;

(xxiv) the assessment unit shall, after taking into account the response furnished by the assessee, make a revised draft assessment order and send it to the National Faceless Assessment Centre;

(xxv) the National Faceless Assessment Centre shall, upon receiving the revised draft assessment order,—

(a) in case the variations proposed in the revised draft assessment order are not prejudicial to the interest of the assessee in comparison to the draft assessment order or the final draft assessment order, and—

(A) in case the revised draft assessment order is in respect of an eligible assessee and there is any variation prejudicial to the interest of the assessee proposed in draft assessment order or the final draft assessment order, forward the said revised draft assessment order to such assessee;

(B) in any other case, finalise the assessment as per the revised draft assessment order and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, alongwith the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment;

(b) in case the variations proposed in the revised draft assessment order are prejudicial to the interest of the assessee in comparison to the draft assessment order or the final draft assessment order, provide an opportunity to the assessee, by serving a notice calling upon him to show-cause as to why the proposed variation should not be made;

(xxvi) the procedure laid down in clauses (xxiii), (xxiv) and (xxv) shall apply mutatis mutandis to the notice referred to in sub-clause (b) of clause (xxv);

'xxvii) where the draft assessment order or final draft assessment order or revised draft assessment order is forwarded to the eligible assessee as per item (A) of sub-clause (a) of clause (xxiii) or item (A) of sub-clause (a) of clause (xxv), such assessee shall, within the period specified in sub-section (2) of section 144C, file his acceptance of the variations to the National Faceless Assessment Centre;

xxviii) the National Faceless Assessment Centre shall,—

(a) upon receipt of acceptance as per clause (xxvii); or

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

finalise the assessment within the time allowed under sub-section (4) of section 144C and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, alongwith the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment;

'xxix) where the eligible assessee files his objections with the Dispute Resolution Panel, the National Faceless Assessment Centre shall upon receipt of the directions issued by the Dispute Resolution Panel under sub-section (5) of section 144C, forward such directions to the concerned assessment unit;

(xxx) the assessment unit shall in conformity of the directions issued by the Dispute Resolution Panel under sub-section (5) of section 144C, prepare a draft assessment order in accordance with sub-section (13) of section 144C and send a copy of such order to the National Faceless Assessment Centre;

'xxxi) the National Faceless Assessment Centre shall, upon receipt of draft assessment order referred to in clause (xxx), finalise the assessment within the time allowed under sub-section (13) of section 144C and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, alongwith the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment;

'xxxii) 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 Act.

12. On careful reading of section 144B(1) as it existed at the relevant point of time, we find that the legislature had already provided a comprehensive statutory mechanism for faceless assessment. Section 144B(1)(iii) specifically provided that in case where notice under section 148(1) has been issued, in those cases also, the assessment under section 143(3) or section 144 shall be completed in a faceless manner. We further observe that section 144B starts with a non obstante clause. The use of such non obstante clause clearly demonstrates legislative intention to give overriding effect to section 144B over other procedural provisions contained in the Act. Our this view is get fortified by para no. 41 of the decision of the Hon'ble Supreme Court in the case of Union of India Vs. Rajeev Bansal reported in 469 ITR 46 (SC) , which is to the following effect:

> *"41. A non-obstante clause must be given effect to the extent Parliament intended and not beyond ICICI Bank Ltd. v. SIDCO Leathers Ltd. [2006] 67 SCL 383 (SC)/[2006] 10 SCC 452. In construing a provision containing a non obstante clause, courts must determine the purpose and object for which the provision was enacted SIDCO Leathers Ltd. (supra); Geeta v. State of Utter Pradesh [2010] 13 SCC 678. The courts are also required to find out the extent to which the legislature intended to give one provision overriding effect over another provision A G Varadarajulu v. State of Tamil Nadu, [1998] 4 SCC 231.* ***In case of a clear inconsistency between two enactments, a provision containing a non obstante clause can be given an overriding effect over a provision contained in another statute."***
>
> *(Emphasis supplied)*

13. On perusal of the above, we find that the Hon'ble Supreme Court has categorically held that, where there exists inconsistency between statutory provisions, the provision

containing a non obstante clause would ordinarily prevail and be given overriding effect. Therefore, once section 144B had already provided statutory mechanism for faceless assessment/reassessment, the same could not be nullified or postponed by subsequent notification issued under section 151A of the Act. We have also gone through para no. 26 of the judgment of the Hon'ble Telangana High Court in the case of Venkataramana Reddy Patlola Vs. DCIT in W.P. Nos.13353, 16141 & 16877 of 2024 dated 24.07.2024, which is to the following effect:

> *"26. The Bombay High Court in Hexaware Technologies Ltd. (supra) held as under:*
>
> *"36.1 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 Central Board of Direct Taxes, which covers both the aforesaid aspect of the provisions of Section 151A of the Act cannot be said to be applicable only for one aspect, i.e., proceedings post the issue of notice under Section 148 of the Act being assessment, reassessment or recomputation under Section 147 of the Act and inapplicable to the issuance of notice under Section 148 of the Act. The Scheme is clearly applicable for issuance of notice under Section 148 of the Act and accordingly, it is only the FAO which can issue the notice under Section 148 of the Act and not the JAO. The argument advanced by respondent would render clause 3(b) of the Scheme otiose and to be ignored or contravened, as according to respondent, even though the Scheme specifically provides for issuance of notice under Section 148 of the Act in a faceless manner, no notice is required to be issued under Section 148 of the Act in a faceless manner. In such a situation, not only clause 3(b) but also the first two lines below clause 3(b) would be otiose, as it deals with the aspect of issuance of notice under Section 148 of the Act. Respondents, being an authority subordinate to the CBDT, cannot argue that the Scheme framed by the CBDT, and which has been laid before both House of Parliament is partly otiose and inapplicable. The argument advanced by respondent expressly makes clause 3(b) otiose and impliedly makes the whole Scheme otiose. If clause 3(b) of the Scheme is not applicable, then*

only clause 3(a) of the Scheme remains. ***What is covered in clause 3(a) of the Scheme is already provided in Section 144B(1) of the Act, which Section provides for faceless assessment, and covers assessment, reassessment or recomputation under Section 147 of the Act. Therefore, if Revenue's arguments are to be accepted, there is no purpose of framing a Scheme only for clause 3(a) which is in any event already covered under faceless assessment regime in Section 144B of the Act.*** *The argument of respondent, therefore, renders the whole Scheme redundant. An argument which renders the whole Scheme otiose cannot be accepted as correct interpretation of the Scheme. The phrase "to the extent provided in Section 144B of the Act" in the Scheme is with reference to only making assessment or reassessment or total income or loss of assessee. Therefore, for the purposes of making assessment or reassessment, the provisions of Section 144B of the Act would be applicable as no such manner for reassessment is separately provided in the Scheme. For issuing notice, the term "to the extent provided in Section 144B of the Act" is not relevant. The Scheme provides that the notice under Section 148 of the Act, shall be issued through automated allocation, in accordance with risk management strategy formulated by the Board as referred to in Section 148 of the Act and in a faceless manner. Therefore, "to the extent provided in Section 144B of the Act" does not go with issuance of notice and is applicable only with reference to assessment or reassessment. The phrase "to the extent provided in Section 144B of the Act" would mean that the restriction provided in Section 144B of the Act, such as keeping the International Tax Jurisdiction or Central Circle Jurisdiction out of the ambit of Section 144B of the Act would also apply under the Scheme. Further the exceptions provided in sub-section (7) and (8) of Section 144B of the Act would also be applicable to the Scheme."*

(Emphasis supplied)

14. On a perusal of the above, we find that the Hon'ble Telangana High Court has reproduced and relied upon para no. 36 of the judgment of the Hon'ble Bombay High Court in the case of Hexaware Technologies Ltd. Vs. Assistant Commissioner of Income Tax (464 ITR 430) . On perusal of the same, we find that the Hon'ble Bombay High Court has clearly observed that what is covered under clause 3(a) of Notification

ted 29.03.2022 was already substantially embedded within section 144B(1) itself, which provided for faceless assessment and reassessment including proceedings under section 147 of the Act. Thus, the aforesaid observations of the Hon'ble High Courts fortify the view that jurisdiction for faceless reassessment was not created for the first time by Notification dated 29.03.2022, but such notification merely operationalized and streamlined the broader faceless reassessment framework already traceable to section 144B of the Act. We have also gone through para nos. 4 to 7 of the decision of the Kolkata Bench of the Tribunal in the case of Meenakshi Mittal Agrawal Vs. ITO in ITA Nos.111 & 112/Kol/2026 for Assessment Years 2014-15 and 2015-16 dated 07.04.2026 relied upon by the assessee, which is to the following effect:

4. It was submitted by the ld. AR that in both cases, the assessment orders in the case of the assessee have been passed on 08.03.2022 by the NFAC. It was the submission that the NFAC got the power to pass assessment order only w.e.f. 29.03.2022. It was the submission that the issue is squarely covered by the decision of Coordinate Cuttack Bench of this Tribunal Nand Kumar Choudhury vs. ITO in ITA No.420/CTK/2025 dated 22.09.2025 wherein the Coordinate Bench has held as follows:

> *2. It was submitted by the ld. AR that the assessment order in the case of assessee has been passed by the NFAC on 28.03.2022. It was the submission that the Notification by which the National Faceless Assessment Centre was made effective is dated 29.03.2022. It was the submission that consequently the assessment order passed on 28.03.2022 is liable to be quashed. Ld. AR placed reliance on the decision of the coordinate bench of the Tribunal in the case of Md. Mahimud SK in ITA Nos.2230&2229/Kol/2024 pronounced on 04.03.2025, wherein in para 10 to 12, the coordinate bench of the Tribunal has held as under :-*
>
> > *"010. After hearing the rival contentions and perusing the materials available on record, we find that the notice to the assessee was issued u/s 148 of the Act on 31.03.2021, through e-mail after the case was reopened u/s 147 of the Act. Notice u/s 143(2) read with section 147 of the Act was issued on 29.06.2021 and thereafter, the proceedings would taken over by National Faceless Centre, Delhi and notice u/s 142(1) dated 09.02.2022, was issued and thereafter show cause was issued to assessee by the NFAC on 17.03.2022.*

Finally, the assessment was framed u/s 147 read with section 144B of the Act vide order dated 23.03.2022.

011. We have perused the section of Section 151A of the Act, which deals with the faceless assessment of income escaping assessment and was brought on the statute book by taxation and other law (realization and amendment of certain provisions) Act, 2020, with effect from 01.11.2020 which was notified on 29.03.2022 vide notification no.18/2022/F. No. 370142/16/2022-TPL(Part)]. Therefore, the assessment proceedings were taken by the National Faceless Assessment Centre, Delhi by issuing notice u/s 142(1) dated 09.02.2022 and thereafter the assessment was framed accordingly after issuing show cause notice which in our opinion is without jurisdiction. The provision of Section 151A of the Act were brought on the statute book with effect from 01.11.2020. However, the same were made effective and applicable with effect from 29.03.2022 vide notification no. when the CBDT notified the new scheme for assessment of income escaping assessment scheme, 2022. In our considered view the assessment framed is without jurisdiction and cannot be sustained. The case of the assessee find force from the decision of Nabiul Industrial Metal Pvt. Ltd., Paschim Medinipur VS. I.T.O., in ITA no. 1328/KOL/2024 for A.Y. 2017-18, the order dated 15.10.2024, wherein a similar issue has been decided in favor of the assessee. For the sake of ready reference, the notice issued u/s 142(1) dated 09.02.2022 and show cause notice dated 17.03.2022, are extracted below:-

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
National Faceless Assessment Centre
Delhi

To,
MD MAHMUD SK
S/O ABDUL RAJJAK VILL-KISMAT NARAYANPUR,PO-SRIRAMPUR,SD-ENGLISHBAZAR
MALDA 732216,West Bengal

PAN:	Assessment Year:	Date:	DIN:
BQYPS6209L	2015-16	09/02/2022	ITBA/AST/F/142(1)/2021-22/103957316(1)

Notice under sub-section (1) of Section 142 of the Income Tax Act, 1961

Dear Taxpayer,

Kindly refer to ongoing assessment proceedings in your case for A.Y. 2015-16 under Faceless Assessment Scheme, 2019.

2. We appreciate the anxiety and uncertainty that is facing all of us in the times of Covid-19. This communication is to assist you in ending one uncertainty, which is pending e-Assessment in your case for the Assessment Year 2015-16.

3. You are requested and required to kindly furnish or cause to be furnished on or before 12/02/2022 by 04:47 PM, the accounts and documents specified in the Annexure to this notice.

4. The accounts or documents, as mentioned above, are required to be submitted online electronically in 'E-proceedings' facility through your account in e-Filing website (www.incometaxindiaefiling.gov.in)

Yours faithfully,
Additional / Joint / Deputy / Assistant Commissioner of Income Tax,
National Faceless Assessment Centre,
Delhi

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
National Faceless Assessment Centre
Delhi

To,
MD MAHMUD SK
S/O ABDUL RAJJAK VILL-KISMAT
NARAYANPUR ,PO-SRIRAMPUR SD-
ENGLISHBAZAR
MALDA 732210 ,West Bengal
India

PAN:	Assessment Year:	Date:	DIN:
BQYPS6209L	2015-16	17/03/2022	ITBA/AST/F/147(SCN)/2021-22/1040940460(1)

Show cause Notice as to why the proposed variation should not be made

Sir/ Mr/ M/s,

1. We appreciate the anxiety and uncertainty that is facing all of us in the times of Covid-19. This communication is to assist you in ironing out uncertainty, which is pending e-Assessment in your case for the Assessment Year 2015-16.

2. The variations as per the draft assessment order may be perused and proposed to be made in your case:-

Credible information had been received for the FY 2014-15 relevant to AY 2015-16, that the assessee had aggregated credit turnover is Rs. 16.99 lacs and debit turnover is 16,99 lacs during the period 01.04.2014 to 31.03.2015 in the bank accounted maintained in Bank of Baroda bearing a/c no. 39920100006975. Prima facie there was reason to believe that the assessee had total credit/deposit in bank account during the FY 2014-15 relevant to AY 2015-16 is Rs. 36,00,557/-, which has escaped assessment within the meaning of section 147 of the Act. Assessment proceedings u/s 147 were initiated after recording reasons and seeking prior approval of Pr. Commissioner of Income-tax. Accordingly, statutory notice U/s 148 of the Act was issued & sent to the assessee by DIN & Document No. ITBA/AST/S/148/2020-21/1032000973(1) dated 31.03.2021 through E-mail requiring the assessee to file his Income Tax Return for the A.Y 2015-16 within 30 days of service of the said notice. In compliance of notice u/s 148, the assessee filed her return of income vide acknowledgement No. 345287873028042I dated 28.04.2021 declaring an income of Rs. 2,25,600/-. During the year under consideration the assessee earned income under the Head Income from Business and Income from other Sources. Statutory notices u/s 143(2), 142(1) alongwith questionnaire were issued to assessee.

2. During the course of assessment proceedings it has been noticed that assessee had deposited cash in Bank of Baroda bearing a/c no. 39920100006975 and in State Bank of India bearing A/c No. 31561107456. In response to notice u/s 143(2) dated 29.06.2021, assessee submitted his reply dated 11.08.2021 stating that he has filed his return of income for the AY 2015-16 showing a turnover of Rs. 25,46,080/- and Net Profit u/s 44AD of Rs. 2,25,760/- besides this assessee receives 3% interest of Rs. 3,280/- during the A.Y. 2015-16. He is doing mainly labour Contract business on the different part of the country and sometimes in local basis. He receives cash from different contractee and paid to the daily workers on cash basis. Whenever, he does not receive any contract he deposited the cash in the bank accounts and later on he again withdraws cash from Bank and pay the daily workers if he receive any contract work. Notice u/s 142(1) dated 29.12.2021 was issued to the assessee to furnish detailed computation of income, brief note indicating the nature of business/professional activities carried out by him and explain the source of cash deposit in the above said accounts. In response to notice u/s 142(1) dated 29.12.2021, assessee did not submit his reply. After that, again a notice u/s 142(1) dated 09.02.2022 was issued to furnish detailed computation of income, copy of cash flow statement, details of contract made with documentary evidence and details of payment to the labour with documentary evidence. But, assessee again did not submit his reply.

3. A final show cause notice u/s 144 of the I.T Act, 1961 was issued to the assessee on 23.02.2022 for the sake of natural justice and providing one more and last opportunity to explain requesting him to furnish the requisite details on or before 25.02.2022. The assessee again failed to furnish any reply.

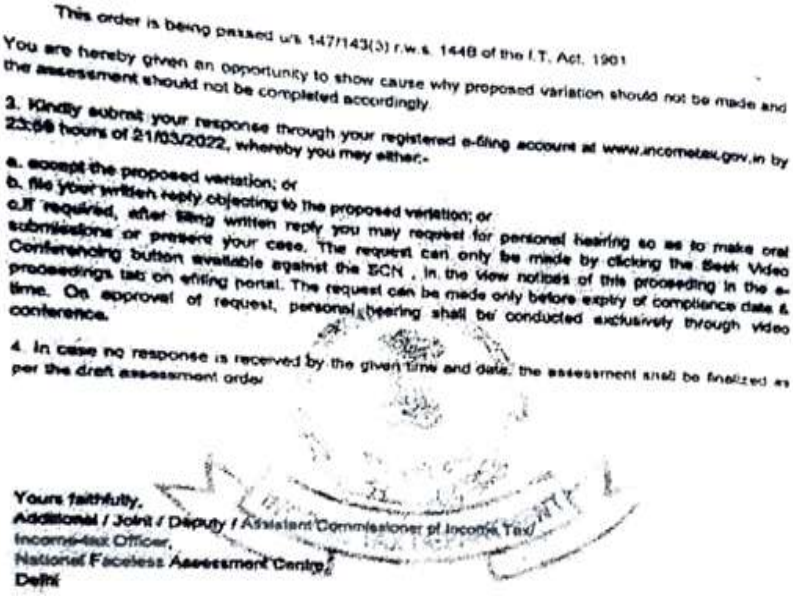
4. It is a part of record that during the course of assessment proceedings sufficient opportunity and reasonable time was granted to the assessee but he did not bother to comply with the notices and to provide the vital information /documents so as to enable the assessing officer to complete the assessment. Needless to mention here that when a statutory notice has been issued, it is the duty of the assessee to respond and to furnish the required information. Further, while scrutinizing the case it would be of great importance to have an idea about assessee's intention behind the non-co-operation. The immediate idea that can be formed is that the assessee might have taken it beneficial to evade the proceedings rather than to co-operate in furnishing the information to avoid further investigation in the matter. Therefore, in the absence of relevant reply from the assessee, the matter is being decided as per the record available.

5. After perusing the reply of the assessee and the return of the income filed u/s 148 that the assessee is driving income from the business and income from other sources. After considering the reply of the assessee, the reply is not found tenable because the assessee has not produced proper books of account coupled with non-production of documentary evidence of contract business. Hence, cash deposited in Bank of Baroda bearing a/c no. 39920100006975 amounting to Rs. 16,96,682/- and in State Bank of India bearing A/c No. 31561107456 amounting to Rs. 4,09,500/- totaling to Rs. 21,06,182/- is treated as unexplained credit entries in book of the assessee and accordingly, addition of Rs. 21,06,182/- is proposed to be added back to the income of the assessee u/s 69A r.w.s. 115BBE of the Income Tax Act, 1961. Penalty proceedings u/s 271(1)(c) of the Income tax act, 1961 for inaccurate particulars of the income are initiated separately.

Returned Income	Rs. 2,25,600/-
Add - as per para 5	Rs. 21,06,182/-
Assessed Income	Rs. 23,31,982/-

Issue Penalty notice u/s 271(1)(c) and 271(1)(b) of the Income Tax Act, 1961.

Assessee is requisite documents to the assessee.



This order is being passed u/s 147/143(3) r.w.s. 144B of the I.T. Act, 1961

You are hereby given an opportunity to show cause why proposed variation should not be made and the assessment should not be completed accordingly.

2. Kindly submit your response through your registered e-filing account at www.incometax.gov.in by 23:59 hours of 21/03/2022, whereby you may either:-

a. accept the proposed variation; or
b. file your written reply objecting to the proposed variation; or
c.If required, after filing written reply you may request for personal hearing so as to make oral submissions or present your case. The request can only be made by clicking the Seek Video Conferencing button available against the SCN , in the View notices of this proceeding in the e-proceedings tab on efiling portal. The request can be made only before expiry of compliance date & time. On approval of request, personal hearing shall be conducted exclusively through video conference.

4. In case no response is received by the given time and date, the assessment shall be finalized as per the draft assessment order

Yours faithfully,
Additional / Joint / Deputy / Assistant Commissioner of Income Tax/
Income-tax Officer,
National Faceless Assessment Centre,
Delhi

012. Considering the above facts and legal position, we are of the considered opinion that the order passed by the NFAC, Delhi is without jurisdiction and is hereby quashed. The appeal of the assessee is allowed.

3. It was the submission that the assessment year in the impugned appeal is liable to be quashed as the assessment order has been passed by the NFAC on 28.03.2022.

4. In reply, ld. Sr. DR vehemently supported the orders of the ld. AO and ld.CIT(A). It was the submission that there are no other decisions on this issue and, therefore, the appeal may be heard on merits.

5. We have considered the rival submissions. Here in the appeal on merits would have no implication, insofar as on the technicality itself the issue has been held against the revenue by the coordinate bench of the Tribunal in the case of Md. Mahimud SK, referred to supra, wherein one of us is a party to the order. This being so, the decision of the coordinate bench of the Tribunal in the case of Md. Mahimud SK, referred to supra, as it is noticed that the assessment order has been passed by the NFAC on 28.03.2022 being prior to the date of notification is bad in law and consequently the same stands quashed."

5. It was the submission that the assessment orders are liable to be quashed as the same is without jurisdiction.

6. In reply, the ld. Sr. DR vehemently supported the order of the Assessing Officer and ld. CIT(A).

7. We have considered the rival submissions. A perusal of the facts in the present case clearly shows that the assessment orders have been passed by NFAC on 08.03.2022 in both cases. The notices have been issued giving powers to NFAC to pass assessment orders on 29.03.2022. Consequently, the NFAC did not have the power to pass the assessment orders till 29.03.2022. The impugned assessment orders have been passed by the NFAC in both cases before the effective date i.e. 29.03.2022. This being so, the impugned assessment orders stand quashed.

15. On perusal of the above, we find that the coordinate bench proceeded on a different interpretative premise while construing the interplay between section 151A and section 144B of the Act. We further find that the coordinate bench did not examine in detail the overriding effect of section 144B containing the non obstante clause nor the legal consequence flowing therefrom. Further, the decision of the coordinate bench does not appear to have considered the binding principles laid down by the Hon'ble Supreme Court in the case of Union of India Vs. Rajeev Bansal (Supra) nor the observations made by the Hon'ble Bombay High Court in the case of Hexaware Technologies Ltd. Vs. ACIT (Supra) as reproduced and relied upon by the Hon'ble Telangana High Court in the case of Venkataramana Reddy Patlola Vs. DCIT (Supra). In our considered opinion, once section 144B of the Act had already statutorily provided the mechanism for faceless assessment/reassessment and such provision carried overriding effect, the subsequent notification issued under section 151A of the Act could not be interpreted in a manner so as to divest or postpone jurisdiction already vested under section 144B of the Act. Therefore, with utmost respect to the

view taken by the coordinate bench, we are unable to persuade ourselves to subscribe to the same, particularly in view of the statutory scheme discussed hereinabove and the binding judicial precedents of the Hon'ble High Courts and Hon'ble Supreme Court.

16. Accordingly, considering the statutory framework, the overriding effect of section 144B of the Act, the scheme of reassessment provisions and the judicial precedents discussed hereinabove, we are of the considered opinion that the FAO possessed valid jurisdiction to pass reassessment order under section 147 of the Act even prior to issuance of Notification dated 29.03.2022 under section 151A of the Act. Therefore, the reassessment order dated 28.09.2021 cannot be said to be without jurisdiction merely on the ground that notification under section 151A of the Act was issued subsequently. Accordingly, the legal ground raised by the assessee stands dismissed.

17. Without prejudiced to our aforesaid findings, we also find that reassessment proceedings under section 147 of the Act ultimately culminate into an assessment order passed either under section 143(3) r.w.s. 147 or under section 144 r.w.s. 147 of the Act. Thus, though jurisdiction for reopening is assumed under sections 147 to 151 of the Act, the actual machinery for framing reassessment continues to be governed by sections 143 and 144 of the Act. Our this view is fortified from the well settled principle through various judicial pronouncements that once a return of income is filed in response to notice issued under section 148 of the Act, issuance of notice under section 143(2) of the Act becomes

mandatory before framing reassessment under section 147 of the Act. This settled legal principle itself demonstrates that reassessment proceedings under section 147 of the Act are procedurally governed by section 143 machinery provisions. Therefore, reassessment proceedings cannot be viewed in isolation from the procedural mandate contained under sections 143 and 144B of the Act. Our this view is supported by para nos. 17 to 22 of the decision of this Tribunal in the case of Gangaram Reddy Tekulapalli Vs. ITO in ITA Nos. 786 and 787/Hyd/2024, for A.Y 2014-15, dated 10.09.2025, which is to the following effect:

> *"17. We shall now deal with the second facet of the controversy involved in the present appeal, i.e. as to whether or not the assessment framed by the A.O. vide his order passed 143(3) r.w.s. 147 of the Act, dated 31.12.2019, in the absence of a notice u/s. 143(2) of the Act having been issued by him is sustainable in the eyes of law?*
>
> *18. Apropos the validity of the assessment framed by the A.O. vide his order passed u/s 143(3) r.w.s. 147 of the Act, dated 31.12.2019, wherein he despite taking cognizance of the "return of income" filed by the assessee on 11.12.2019 in response to the notice issued under Section 148 of the Act, dated 27.03.2019 (which has been held by us hereinabove to be a valid return of income), had by treating the said "return of income" as invalid, dispensed with the statutory requirement of issuing a notice u/s 143(2) of the Act and framed the assessment vide his order passed u/s 143(3) r.w.s. 147 of the Act, dated 31.12.2019, we find that the said issue is covered by the judgments of the Hon'ble Supreme Court in the cases of ACIT and Anr. Vs. Hotel Blue Moon (2010) 321 ITR 362 (SC) and CIT Vs. Laxman Das Khandelwal (2019) 417 ITR 325 (SC) and is no ITA.Nos.786 & 787/Hyd./2024 more res integra. The Hon'ble Apex Court in its aforesaid judicial pronouncements, has held, that the A.O. pursuant to the return of income filed by the assessee remains under the statutory obligation to issue notice u/s 143(2) of the Act for framing the assessment.*
>
> *19. Our aforesaid view is further fortified by the judgment of the Hon'ble High Court of Delhi in the case of Pr. CIT Vs. Shri Jai Shiv Shankar Traders (P)*

Ltd. (2016) 3783 ITR 488 (Del). The Hon'ble High Court had held that the absence of notice u/s.143(2) of the Act impregnates the proceeding with a jurisdictional defect, and hence, renders it as invalid in the eyes of law. The aforesaid view had thereafter been reiterated by the Hon'ble High Court in the case of Pr. CIT Vs. Dart Infrabuild (P) Ltd., (2024) 166 taxmann.com 4 (Del). Also, the Hon'ble High Court of Allahabad in the case of CIT Vs. Salarpur Cold Storage (P) Ltd. (2015) 228 Taxman 48 (Allahabad) had after relying upon the judgment of the Hon'ble Apex Court in the case of CIT Vs. Hotel Blue Moon (supra), held that the requirement of issuance of notice u/s.143(2) of the Act was mandatory and cannot be brought within the meaning of a procedural irregularity. The Hon'ble High Court of Madras in the case of Sapthagiri Finance & Investments Vs. ITO, (2012) 25 taxmann.com 341 (Mad), has held that where the A.O found that there was a problem in the "return of income" filed by the assessee u/s.148 of the Act, which required an explanation, then he ought to have followed up by a notice u/s.143(2) of the Act. The Hon'ble High Court of Delhi in the case of Pr. CIT Vs. S.G Portfolio (P) Ltd. (2023) 454 ITR 761 (Del.) has, inter alia, held that where the assessee has filed a "return of income" in response to notice u/s. 148 of the Act, the A.O. was required to issue notice u/s.143(2) of the Act for framing the assessment. We ITA. Nos. 786 & 787/Hyd./2024 further find that Hon'ble High Court of Madras in the case of Amec Foster Wheeler Iberia SLU-India Project Office Vs. DCIT, (2023) 148 taxmann.com 124 (Mad), has held that where the A.O did not issue notice u/s.143(2) of the Act upon the assessee, then the initiation of reassessment proceedings; order rejecting the assessee's objection against the assumption of jurisdiction for reopening and also the reference to the TPO were to be quashed.

20. Apropos the Ld. DR's claim that as the assessee in the course of the proceedings before the A.O had not objected to the assumption of the jurisdiction by him, and on the contrary participated in the assessment proceedings, therefore, the non- issuance of the notice u/s 143(2) of the Act will be saved by the provisions of Section 292BB of the Act, we are unable to concur with the same. We say so, for the reason that the deeming provisions of the said statutory provision only cure the infirmities in the manner of service of notice and is not intended to cure the complete absence of notice itself. Our aforesaid view is supported by the judgment of the Hon'ble Supreme Court in the case of CIT Vs. Laxman Das Khandelwal (2019) 417 ITR 325 (SC). The Hon'ble Apex Court relying on its earlier order in the case of ACIT Vs. Hotel Blue Moon (supra), has held that the failure to issue a notice under Section 143(2) renders the

assessment order void even if the assessee had participated in the proceedings.

21. We thus, based on our aforesaid deliberations conclude as under:

(a). the "return of income" filed by the assessee on 11.12.2019 in response to the notice issued by the A.O. under Section 148 of the Act, dated 27.03.2019, having been filed during the pendency of the assessment proceedings which had culminated ITA.Nos.786 & 787/Hyd./2024 vide the order of assessment passed u/s 143(3) r.w.s. 147 of the Act, dated 31.12.2019, is a valid "return of income" though involving a delay.

(b). the A.O by treating the "return of income" filed by the assessee on 11.12.2019 in response to notice u/s 148, dated 27.03.2019 as invalid and non-est, had wrongly assumed jurisdiction by dispensing with the statutory obligation cast upon him to issue notice u/s 143(2) of the Act, and wrongly framed the impugned assessment vide his order passed u/s 143(3) r.w.s.147 of the Act, dated 31.12.2019..; AND

(c). that as the deeming provisions of Section 292BB of the Act only cure the infirmities in the manner of service of notice and is not intended to cure the complete absence of notice itself, therefore, the non-issuance of notice u/s 143(2) of the Act, based on the "return of income" filed by the assessee on 11.12.2019 in response to the notice issued under Section 148 of the Act, dated 27.03.2019 will not be saved by the deeming provisions of the said statutory provision.

22. Accordingly, we are of the view that as the A.O in the present case before us, had erroneously held the "return of income" filed by the assessee on 11.12.2019 i.e in response to the notice u/s 148 of the Act, dated 27.03.2019 as invalid and non-est, and thereafter had on the said wrong premises dispensed with the statutory requirement of issuing the notice u/s 143(2) of the Act, and framed the impugned assessment vide his order passed under Section 143(3) r.w.s. 147 of the Act, dated 31.12.2019, therefore, the assessment order so passed by him cannot be sustained and is liable to be quashed for want of valid assumption of jurisdiction."

18. On perusal of the above, we find that the Coordinate Bench of the Tribunal has set aside the order passed under section 143(3) r.w.s. 147 of the Act in the absence of issue of any notice under section 143(2) of the Act. Therefore, in our

considered view, section 151A of the Act merely empowers framing of a comprehensive faceless reassessment scheme including issuance of notice under section 148, conducting enquiries under section 148A and grant of sanction under section 151 of the Act. The said provision does not curtail or dilute the jurisdiction already available under section 144B of the Act for completing reassessment proceedings in a faceless manner. In other words, section 144B of the Act operates in the field of "assessment procedure", whereas section 151A of the Act operates in the field of "faceless reassessment scheme administration". Both provisions operate in distinct though overlapping spheres. We observer that notification dated 29.03.2022 cannot be construed as the source of original jurisdiction for faceless reassessment. If the interpretation canvassed by the assessee is accepted, it would lead to the anomalous consequence that despite existence of section 144B of the Act on the statute book, all faceless reassessment proceedings conducted prior to 29.03.2022 would become jurisdictionally invalid, which does not appear to be the legislative intent. Accordingly, on this count also, the additional grounds raised by the assessee are liable to be dismissed.

19. Now coming to the merits of the case, the Ld. AR submitted that the Ld. CIT(A) erred in rejecting the claim under section 54F of the Act merely on the ground that the same was not claimed before the Ld. AO through revised return. Inviting our attention to the decision of the Hon'ble Supreme Court in the case of Goetze (India) Ltd. Vs. CIT reported in 284 ITR 323, the Ld. AR submitted that though the Hon'ble Supreme Court restricted the power of the Assessing Officer in entertaining

fresh claim otherwise than through revised return, the Hon'ble Supreme Court itself categorically clarified that the said restriction does not apply to appellate authorities. The Ld. AR further relied upon the decision of the Hon'ble Supreme Court in the case of Jute Corporation of India Ltd. Vs. CIT reported in 187 ITR 688 and submitted that appellate authorities have wide powers to entertain additional claims and grounds so as to correctly determine the tax liability of the assessee. Accordingly, it was submitted that rejection of claim under section 54F of the Act by the Ld. CIT(A) solely on the ground that no revised return was filed is contrary to settled law laid down by the Hon'ble Apex Court.

20. Further, with regard to the finding of the Ld. CIT(A) that deduction under section 54F of the Act can be allowed only in respect of one flat and not all 50 flats, the Ld. AR submitted that the present case pertains to Assessment Year 2013-14 and therefore provisions of section 54F of the Act as they existed prior to amendment made by Finance Act, 2014 are applicable. It was submitted that prior to amendment by Finance Act, 2014 with effect from 01.04.2015, the expression used in the statute was "a residential house", whereas by way of amendment, the expression was substituted by the words "one residential house in India". The Ld. AR further submitted that the amendment brought by Finance Act, 2014 is prospective in nature and not applicable to Assessment Year 2013-14. It was also submitted that prior to amendment, the expression "a residential house" had consistently been interpreted by various Courts and Tribunals to include multiple residential units received under a development agreement. The Ld. AR further submitted that the very same JDA on the basis of which the Revenue

Authorities computed capital gains in the hands of the assessee clearly demonstrates that 50 flats admeasuring 66,667 sq.ft. were receivable by the assessee. Therefore, once the Revenue Authorities accepted the JDA for the purpose of taxing capital gains, they cannot simultaneously reject the same JDA for the purpose of allowing deduction under section 54F of the Act. In support of the said contention, the Ld. AR relied upon the judgment of the Hon'ble Madras High Court in the case of CIT Vs. V.R. Karpagam reported in 373 ITR 127 and specifically invited our attention to para nos.8 to 13 of the said judgment wherein the Hon'ble High Court held that where multiple residential units are received by an assessee under a JDA, deduction under section 54F of the Act cannot be denied in respect of all such units for the assessment years prior to amendment by Finance Act, 2014. Accordingly, the Ld. AR prayed that the Ld. AO may be directed to allow deduction under section 54F of the Act in respect of entire value of 50 flats receivable by the assessee under the JDA against the long-term capital gain assessed in the hands of the assessee.

21. Per contra, the Ld. DR relied upon the order of the Ld. CIT(A) and submitted that no deduction under section 54F of the Act can be allowed in the absence of documentary evidence regarding actual construction or acquisition of flats. It was further submitted that the assessee failed to furnish evidence establishing completion or possession of residential units. The Ld. DR alternatively submitted that even if deduction under section 54F of the Act is held to be allowable, the same should be restricted only to one residential flat and not all 50 flats.

22. We have heard the rival submissions and perused the material available on record including the case laws relied upon. We have also gone through the para no.5 of the order of the Ld. AO which is to the following effect:

5. The assessee, a landowner entered into a Development Agreement Cum General Power of Attorney with Sri S. Krishna Mohan Varma S/o S. Rama Krishna Raju, Managing Partner of M/s Sri Krishna Infra, Tirupati, a Firm, on 21.01.2013 to develop a property for construction of housing flats at Thimminaidupalem Village, Tirupati Mandal. The venture is named as 'Brindavanam'. Under this agreement, the total number of flats to be constructed is 165 flats, out of which 4 flats were to be earmarked for Gym and Clubhouse. As per the agreement, it was proposed to construct flats of a total developed area of 2,15,055 Sft, by which 66667 Sft of the constructed area shall be the land owner's share and the balance 1,48,388 Sft shall belong to the firm. Therefore, in terms of percentage, a total of 31% of the constructed area shall belong to the assessee. In terms of constructed flats of 161 (165-4), 50 flats belong to the assessee and the balance 111 flats would belong to the builder. The Builder/Developer has paid an advance in the following manner to the assessee:

1. Rs.17,00,000/- paid through cash.
2. Rs.5,00,000/- paid by way of cheque of ICICI Bank, Tirupati vide Cheque No. 289331, dated 09.09.2011.
3. Rs.3,00,000/- paid by the way of RTGS (Chq. No.112397) from the M/s Sri Krishna Infra's SBI, Tilak Road Branch account to C. Anuradha's account dated 01.10.2012.

As per the Agreement cum GPA, the cost of construction is Rs.800/- per Sft. However, the Managing Partner of the firm, Sri S Krishna Mohan Varma, during the course of the survey u/s 133A on 10.09.2015 in his statement accepted that the cost of construction per square foot is Rs.1200/- to Rs.1300/- and not Rs.800/- per square foot as mentioned in the Agreement cum GPA.

Subsequently, a sworn statement u/s 131 was recorded from the assessee, Smt. Anuradha Chennu, on 16.09.2015 in which she has admitted that she is liable to pay the capital gains tax. Further, in the statement recorded on 23.09.2015, the assessee has admitted to be liable to pay capital gains tax on the land transferred.

23. On perusal of the above, we find that the Ld. AO has categorically recorded the fact that the assessee has entered into JDA with the Developer on 21.01.2013 and the assessee was entitled to receive 50 residential flats admeasuring 66,667 sq.ft. against transfer of land contributed under the JDA. At the outset, as regards the finding of the Ld. CIT(A) that deduction under section 54F of the Act cannot be entertained for the first time before the appellate authority in the absence of revised return, we are unable to agree with the said finding. We found that the Hon'ble Apex Court in the case of Goetze (India) Ltd. Vs. CIT (supra) itself has categorically clarified that the restriction imposed therein applies only to the powers of the Assessing Officer and not to appellate authorities. Further, the Hon'ble Supreme Court in the case of Jute Corporation of India Ltd. Vs. CIT (supra) has categorically held that appellate authorities have wide powers to entertain additional grounds and fresh claims in order to correctly determine the tax liability of the assessee. Therefore, in our considered opinion, the Ld. CIT(A) was not justified in rejecting the claim under section 54F of the Act merely on the ground that the same was not made before the Ld. AO through revised return.

24. The second objection of the Revenue is that no deduction under section 54F of the Act can be allowed to the assessee against the flats to be received on account of JDA and even if it is allowed, it can be allowed only in respect of one flat. In this regard, we find that the present case pertains to Assessment Year 2013-14 i.e., prior to amendment made by Finance Act, 2014 with effect from 01.04.2015. Prior to amendment, the expression used in section 54F of the Act was

"a residential house". The amendment substituting the said expression by "one residential house in India" is prospective in nature and therefore not applicable to the year under consideration. We have also gone through para nos.8 to 13 of the judgment of the Hon'ble Madras High Court in the case of CIT Vs. V.R. Karpagam (Supra), which is to the following effect:

8. We have heard the learned Standing counsel appearing for the Revenue at length and perused the materials placed before this Court and the decision relied on by the Tribunal in the case of CIT V. Smt. K.G.Rukminiamma reported in 331 ITR 211. We find that the relevant provision is this case is Section 54F of the Income Tax Act, which reads as follows:

> 54F. Capital gain on transfer of certain capital assets not to be charged in case of investment in residential house.--

(1) Subject to the provisions of sub-section (4), where, in the case of an assessee being an individual or a Hindu undivided family, the capital gain arises from the transfer of any long-term capital asset, not being a residential house (hereafter in this section referred to as the original asset), and the assessee has, within a period of one year before two years after the date on which the transfer took place purchased, or has within a period of three years after that date constructed, a residential house (hereafter in this section referred to as the new asset), the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,--

(a) if the cost of the new asset is not less than the net consideration in respect of the original asset, the whole of such capital gain shall not be charged under section 45:

(b) if the cost of the new asset is less than the net consideration in respect of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of the new asset bears to the net consideration, shall not be charged under section 45:

Provided that nothing contained in this sub-section shall apply where□

(a) the assessee,□

(i) owns more than one residential house, other than the new asset, on the date of transfer of the original asset ; or

(ii) purchases any residential house, other than the new asset, within a period of one year after the date of transfer of the original asset ; or

(iii) constructs any residential house, other than the new asset, within a period of three years after the date of transfer of the original asset; and

(b) the income from such residential house, other than the one residential house owned on the date of transfer of the original asset, is chargeable under the head □□Income from house property□□

9. It is relevant to note herein that an amendment was made to the above-said provision with regard to the word 'a' by the Finance (No.2) Act, 2014, which will come into effect from 01.04.2015. The said amendment reads as follows:

"32a. Words □constructed , one residential house in India□shall be substituted for □constructed, a residential house□by the Finance (No.2) Act, 2014, with effect from 01.04.2015."

10. The above-said amendment to Section 54F of the Income Tax Act, which will come into effect only from 01.04.2015, makes it very clear that the benefit of Section 54F of the Income Tax Act will be applicable to constructed, one residential house in India and that clarifies the situation in the present case, i.e, post amendment, viz., from 01.04.2015, the benefit of Section 54F will be applicable to one residential house in India. Prior to the said amendment, it is clear that a residential house would include multiple flats/residential units as in the present case where the assessee has got five residential flats. We may also mention here that all the Authorities below have clearly understood that the agreement signed by the assessee with M/s.Mount Housing Infrastructure Ltd., is that the assessee will receive 43.75% of the built-up area after development, which is construed as one block, which may be one or more flats. In that view of the matter what was before the Assessing Officer is only equivalent of 56.25% of land transferred, equivalent to 43.75% of built up area received by the assessee. This built up area got translated into five flats. Hence, we are of the opinion that the transaction in this case was not with regard to the number of flats but with regard to the percentage of the built up area, vis-a-vis, the Undivided Share of Land.

11. In similar circumstances, this Court, by order dated 04.01.2012 in T.C.(A)No.656 of 2005 held as follows:

"The above provision refers to a residential house meaning thereby that even if there are four different flats and if it is considered for the property assessed as one unit and one door number is given, it should be construed as a residential unit, namely, one unit. In that sense, the said provision is available to the assessee."

12. In the decision reported in (2012) 75 DTR 56 (Dr.(Smt.) P.K.Vasanthi Rangarajan, this Court, while dealing with the benefit of exemption under Section 54F, followed the above-said decision of this Court in T.C.(A)No.656 of 2005 and granted the benefit to the assessee under Section 54F of the Income Tax Act on the investment made in the four flats.

13. Hence, the above-said decisions of this Court make it clear that the property should be assessed as one unit, even though different flats are available. Here also, as per the assessment order, all the flats have one door number, namely, Door No.29F, Race Course, Coimbatore.

25. On perusal of the above, we found that the Hon'ble High Court has categorically held that where more than one residential unit has been received by the assessee pursuant to a development agreement, deduction under section 54F of the Act cannot be denied in respect of all such residential units for assessment years governed by pre-amended provisions. In the present case, the Revenue Authorities themselves have computed long-term capital gain in the hands of the assessee by adopting the value of 50 flats receivable under the JDA. Therefore, once the Revenue has accepted the JDA and quantified capital gains on the basis of the very same entitlement of flats receivable by the assessee, the Revenue cannot selectively disregard the same JDA while considering claim under section 54F of the Act. We further find merit in the contention of the Ld. AR that the JDA itself constitutes relevant documentary evidence establishing entitlement of the assessee to receive 50 residential flats from the developer. In our considered opinion, once the capital gains have been brought to tax on accrual basis by treating transfer under section 2(47)(v) of the Act as complete on execution of JDA, the corresponding exemption under section 54F of the Act arising from acquisition of residential units under the same JDA cannot be denied on hyper technical grounds. Accordingly, respectfully following the judgment of the Hon'ble Madras High Court in the case of CIT Vs. V.R. Karpagam (supra), we direct the Ld. AO to allow deduction under section 54F of the Act in respect of entire value of all 50 flats receivable by the assessee under the JDA against the long-term capital gain assessed in the hands of the assessee.

26. In addition to our aforesaid observations and findings, we further observe that the issue arising before us on merits has two distinct limbs for adjudication. The first limb relates to whether the assessee is eligible for deduction under section 54F of the Act in respect of investment made in more than one residential flat prior to the amendment brought in by the Finance Act, 2014 with effect from 01.04.2015. The second limb relates to whether the assessee is entitled to deduction under section 54F of the Act in respect of residential flats which are to be received by the assessee in future in terms of the JDA. As regards the first limb of the issue, we find that the same is squarely covered by para nos. 10 and 11 of the decision of this Tribunal in the case of Mekala Sharath Reddy (HUF) Vs. DCIT in ITA No.1799/ Hyd/2025, for the A.Y 2009-10 dated 15.03.2026, which is to the following effect:

10. We have heard the rival submissions and perused the material available on record including the case laws relied upon. The solitary issue before us relates to the allowability of deduction under section 54F of the Act in respect of investment made in construction of multiple residential units. As far as the first contention of the assessee regarding applicability of the provision of unamended section 54F of the Act is concerned, we find merits in the submissions of the Ld. AR that for the Assessment Year under consideration, the provisions prior to amendment by the Finance Act, 2014 are applicable, wherein the expression used was "a residential house". In this regard, we have gone through para nos.12 and 13 of the judgment of the Hon'ble Bombay High Court in the case of Krishnagopal B. Nangpal vs. DCIT (Supra), which is to the following effect:

> "12. For purpose of the present appeal, what is relevant is replacement of the expression 'a residential house' by the expression 'one residential house' by way of 2014 amendment. Prior to the 2014 amendment, capital gains arising from transfer of a long term capital asset, including a residential house, qualified for exemption if the same was invested for purchase or construction of 'a residential house'. The department has disallowed the claim of the Assessee for adjustment of the entire capital gain arising of sale of the flat in Mumbai, on the ground that the Assessee has purchased seven row houses in project at Pune. According to the department, exemption under Section 54 (1) of the Act is applicable only in respect of investment made in purchase of only one residential house and is not permissible for the purchase of multiple residential houses. The ITAT has accordingly granted the

benefit of Section 54(1) of the Act in respect of one of the seven row houses purchased by the Assessee.

13. In our view, the amendment brought in by Finance (No.2) Act 2014 makes the position clear that after the amendment, ITA No1799 of 2025 Mekala Sharath Reddy HUF the capital gains can be adjusted against purchase of only 'one' residential house. The word 'a' is consciously replaced by the legislature by the word 'one' by way of amendment making the intention clear that after the amendment, it is impermissible to adjust the capital gains arising out of one house towards purchase of more than one houses. If the restriction of adjustment of capital gains against only one house was already there in the unamended Section 54(1), there was no necessity of amendment by specifically using the word 'one'."

11. On perusal of the above, we find that the Hon'ble High Court has clearly held that the substitution of the word "a" by the word "one" is prospective in nature and indicates that prior to amendment, there was no restriction limiting the deduction to a single residential unit. Though the said decision was rendered in the context of section 54 of the Act, we find that the relevant language used in section 54F of the Act is pari materia and therefore the ratio laid down by the Hon'ble Bombay High Court would squarely apply to the present case. Accordingly, respectfully following the judicial precedent laid down by the Hon'ble Bombay High Court, we hold that for Assessment Year 2009-10, deduction under section 54F of the Act cannot be denied merely because the assessee has constructed multiple residential units. Accordingly, the first contention of the assessee is accepted.

27. On perusal of the above, we find that the Coordinate Bench of the Tribunal, following the judgment of the Hon'ble Bombay High Court, held that prior to the amendment made by the Finance Act, 2014 with effect from 01.04.2015, deduction under section 54F of the Act could not be denied merely on the ground that the investment was made in multiple residential units/flats. Accordingly, in terms of the said decision, the assessee is eligible for deduction under section 54F of the Act in respect of investment made in more than one residential flat for the year under consideration. Now coming to the second limb of the issue relating to eligibility of deduction under section 54F of the Act in respect of flats which are to be received by the assessee in future pursuant to the JDA, we find that the issue is covered by para nos. 13 to 16 of the decision of this Tribunal in the case of Gyana Kumari Rojanala Vs. ITO in ITA No. 1054/Hyd/2025, dated 15.10.2025, which is to the following effect:

13. We shall now take up the second issue involved in the present appeal, i.e., as to whether or not the sale consideration to be received by the assessee (land owner) in lieu of transfer of her land to the developer as per the terms of the "Joint Development Agreement" (JDA), i.e. share in the residential apartments /duplexes to be constructed on the said land (agreed to be allotted to her), can be construed as and brought within the meaning of "investment in construction of the new residential house" as provided in Section 54F of the Act. We find that the subject issue is squarely covered by the order of a coordinate bench of the Tribunal, i.e., **ITAT "G" Bench, Mumbai**, in the case of **Shilpa Ajay Varde Vs. Pr. Commissioner of Income-tax-22, Mumbai, ITA No. 2627/Mum/2018, dated 14.11.2018**. The Tribunal had, in its order, observed as under:

> "The dispute between rival parties concerns as to entitlement of the assessee for deduction u/s 54F of the value of the two new residential flats bearing number 701 and 702 within provisions of Section 54F of the 1961 Act on the grounds that the said flats are not even being constructed by the developer "Honest Infra" and they are future properties, thus the assessee is not entitled for deduction u/s 54F."

The Tribunal answered the aforesaid issue, as under:

> "Further even on merits, we have observed that assessee along with co-owners of the property has entered into an registered development agreement with the developer on 31.12.2012 which was registered on

10.01.2013 and possession was handed over on 10.01.2013. The assessee was to get Rs. 40 lacs as monetary compensation and also to get four new residential flats in consideration under the said development agreement from the developer "Honest Infra" as her share of consideration under development agreement dated 31.12.2012. The four new residential flats bearing numbers 701, 702 , 1001 and 601 in the building are to be constructed on said property by the developer, thus, what the assessee is to get from developers are yet to be built new residential flats bearing flat no. 701, 702, 1001 and 601 in the building proposed to be constructed by "Honest Infra" under the said registered development agreement dated 31.12.2012, these flats were allotted specifically by the developer in favour of the assessee under development agreement which entitled assessee to sell, dispose of or even create charge on these flats. Thus, effectively it could be said that the share of consideration in lieu of property for development given by the assessee to the developer, to the extent of these four residential flats is retained by the builder which will be invested by the developer by utilising its own funds for constructing these flats on behalf of the assessee. This effectively means that consideration under the development agreement dated 31.12.2012 which other wise assessee was entitled to receive is now withheld by the developer which will be invested for constructing these flats on behalf of the assessee which will satisfy the requirement of making investment in construction of new residential flat as is provided u/s 54F of the 1961 Act. Section 2(14) is very widely defined to mean property of any kind held by an tax-payer, whether or not connected with his business or profession. The exceptions are also provided u/s 2(14) wherein property shall not be included in the definition of capital asset. We have also observed that CBDT own circulars bearing 471 dated 15.10.1986 and 672 dated 16.12.1993 are relevant, wherein allotment of flat under self financing scheme is held to be construction for the purposes of capital gains. Thus, in our considered view the AO rightly allowed deduction u/s 54F of the 1961 Act to the assessee vide assessment order dated 20.10.2015 passed u/s 143(3) by the AO and to that extent the said assessment order cannot be termed as perverse or erroneous so far so it is prejudicial to the interest of Revenue calling for interference u/s 263 of the 1961 Act."

14. Also, support is drawn from the judgment of the **Hon'ble High Court of Karnataka** in **CIT Vs. K.G. Rukminiamma (2011) 331 ITR 211 (Kar)**. The Hon'ble High Court had observed that the

assessee, who owned certain property, had entered into a Joint Development Agreement (JDA) with a builder to develop the said property. According to the development agreement, the assesse was entitled to 48% of the super built-up area in the form of four residential flats. The Hon'ble High Court had held that the four residential flats constitute "a residential house" for the purpose of Section 54 of the Act. Also, we may herein observe that the **Hon'ble High Court of Karnataka** had in **CIT Vs. Sambandam Udaykumar (2012) 345 ITR 389 (Kar)**, inter alia, observed, that once it was demonstrated that the consideration received on transfer has been invested either in purchasing a residential house or in the construction of residential house even though transactions are not complete in all respects and as required under law, that would not disentitle the assessee from the benefit contemplated under Section 54 of the Act.

15. We, thus, in the backdrop of the facts involved in the present case, read in the light of the aforesaid settled position of law, are of the view that the residential apartments/duplexes that were agreed to be allotted to the assessee, viz. (i). 47% share in the duplex (independent) houses; and (ii). 36.5% share in the residential

apartments, as per the Joint Development Agreement (JDA), dated 06.11.2013, in lieu of transfer of her land admeasuring 7,254 sq. yards (i.e 1 Acre – 3974 Sq. yards) situated at Village: Manchirevula, Narsingi, District: Ranga Reddy to the developer, being an investment towards construction of "a residential house" qualifies for exemption under Section 54F of the Act.

16. Resultantly, we set aside the order of the CIT(A) and direct the AO to allow the assessee's claim for exemption under Section 54F of the Act in terms of our aforesaid observations. The **Grounds of appeal Nos. 3 & 4** are allowed in terms of our aforesaid observations.

28. On perusal of the above, we find that the Coordinate Bench of the Tribunal has categorically held that the residential apartments agreed to be allotted to the assessee under the terms of the JDA would qualify for exemption under section 54F of the Act. Accordingly, in terms of the aforesaid decision, the assessee is entitled to deduction under section 54F of the Act in respect of the residential flats/apartments agreed to be received by the assessee under the JDA.

29. Accordingly, on the basis of our above findings, the grounds of the assessee on merits are allowed. Therefore, we direct the Ld. AO to allow deduction under section 54F of the Act in respect of entire value of all 50 flats receivable by the

assessee under the JDA against the long-term capital gain assessed in the hands of the assessee.

30. In the result, the appeal of the assessee is allowed.

Order pronounced in the Open Court on 29th May, 2026.

Sd/-	Sd/-
(VIJAY PAL RAO) **VICE PRESIDENT**	**(MADHUSUDAN SAWDIA)** **ACCOUNTANT MEMBER**

Hyderabad, dated 29th May, 2026.

Vinodan/sps

Copy to:

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3	Pr. CIT - Tirupati
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order

VADREVU PRASADA RAO

Digitally signed by VADREVU PRASADA RAO
Date: 2026.05.29 14:00:49 +05'30'