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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision : 21.11.2025*

\+ W.P.(C) 16937/2025, CM APPL. 69636/2025
INDER DEV GUPTA

.....Petitioner

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL CIRCLE 2-DELHI

.....Respondent

\+ W.P.(C) 16939/2025 CM APPL. 69639/2025
ALL INDIA KATARIA EDUCATIONAL SOCIETY

.....Petitioner

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL CIRCLE 2-DELHI

.....Respondent

\+ W.P.(C) 16949/2025 CM APPL. 69652/2025
ALL INDIA KATARIA EDUCATIONAL SOCIETY

.....Petitioner

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL CIRCLE 2-DELHI

.....Respondent

\+ W.P.(C) 16950/2025 CM APPL. 69655/2025
INDER DEV GUPTA

.....Petitioner

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL CIRCLE 2-DELHI

.....Respondent

\+ W.P.(C) 16985/2025 CM APPL. 69843/2025
ALL INDIA KATARIA EDUCATIONAL SOCIETY

.....Petitioner

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL CIRCLE 2-DELHI

.....Respondent

\+ W.P.(C) 16986/2025 CM APPL. 69848/2025
SUMANGLAM SEWA AIVAM EDUCATION SAMITI

.....Petitioner

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL CIRCLE 2-DELHI

.....Respondent

\+ W.P.(C) 16987/2025 CM APPL. 69852/2025
INDER DEV GUPTA

.....Petitioner

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL CIRCLE 2-DELHI

.....Respondent

\+ W.P.(C) 16995/2025 CM APPL. 69869/2025
INDER DEV GUPTA

.....Petitioner

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL CIRCLE 2-DELHI

.....Respondent

\+ W.P.(C) 17082/2025 CM APPL. 70292/2025
ALL INDIA KATARIA EDUCATIONAL SOCIETY .....Petitioner

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL CIRCLE 2-DELHI .....Respondent

Counsel for the petitioners : Mr. Kumail Abbas, Mr. Deepanshu Mehta, Ms. Sahar Irfan and Ms. Riya, Jain, Advs.

Counsel for the respondent : Mr. Anurag Ojha, SSC, Mr. V. K. Saksena, JSC, Ms. Hemlata Rawat, JSC and Mr. Abhay Singh, Ms. Tanuja & Mr. Saurabh, Advs.
Mr. Sunil Agarwal, SSC, Mr. Viplav Acharya, JSC, Ms. Priya Sarkar, JSC, Mr. Anugrah Dwivedi and Mr. Utkarsh Tiwari, Advs.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE VINOD KUMAR

V. KAMESWAR RAO , J. (ORAL)

1. The captioned petitions have been filed impugning notices issued under Section 148 of the Income Tax Act, 1961 (the Act) by the respondent who is the Jurisdictional Assessing Officer (JAO). The contentions of the petitioner is that the said notices and all subsequent proceedings emanating

there from are wholly without jurisdiction *void ab intio* and in contravention to the statutory scheme under Section 151A of the Act read with "E-Assessment of Income Escaping Assessment Scheme, 2022" (the Scheme).

2. As the present petitions agitate a common issue, i.e., whether the JAO would have the jurisdiction to initiate reassessment proceedings under Section 148 of the Act, we may proceed to decide them together.

3. The contention of Mr. Kumail Abbas, learned counsel for the petitioners is that on 31.03.2023, the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2022 (TOLA) inserted Section 151A into the Act, mandating that all notices under Section 148 of the Act must be issued by the Faceless Assessing Officer (FAO) alone. In furtherance, the Central Board of Direct Taxes (CBDT) *vide* notification S.O.1466(E) dated 29.03.2022 introduced the Scheme which in paragraph 3 expressly provides that all assessment, re-assessment or re-computation under Section 147 of the Act and the issuance of notice under Section 148 of the Act shall be conducted in a faceless manner as per Section 144B of the Act. It is therefore, only the Assessment Unit functioning under the National Faceless Assessment Centre (NFAC) namely, the FAO, which has lawful authority to issue such notices, and the JAO is wholly divested of such power.

4. He submitted that consistent with the above statutory scheme, several High Courts have categorically held that the JAO has no jurisdiction to issue reopening notices under Section 148 of the Act, in the cases listed below:

a. Hexaware Technologies Ltd. v. ACIT [2024] 162 taxmann.com 225 (Bombay HC);

b. Prakash Pandurang Patil v. ITO [2024:BHC-AS:32759-DB]

(Bombay HC);

c. Sri Venkataramana Reddy Patloola v. DCIT [W.P. Nos. 13353, 16141 & 16877 of 2024] (Telangana HC);

d. Deepanjan Roy v. ADIT (International Taxation)-2 [W.P. No. 23573 of 2024] (Telangana HC);

e. Jatinder Singh Bhangu v. Union of India [CWP 15745 of 2024] (Punjab & Haryana HC);

f. Royal Bitumen (P.) Ltd. v. ACIT [2024] 164 taxmann.com 606 (Bombay HC);

g. Everest Kanto Cylinder Ltd. v. DCIT/ACIT [2024] 165 taxmann.com 192 (Bombay HC);

h. Sundaram Multi Pap Ltd. v. ACIT [2024] 164 taxmann.com 608 (Bombay HC);

i. Venus Jewel v. ACIT [2024] 164 taxmann.com 414 (Bombay HC).

5. He stated that the Revenue carried some of these judgments in appeal before the Supreme Court, which has since conclusively settled the issue *vide* ***ADIT (International Taxation)-2, Hyderabad & Anr. v. Deepanjan Roy, SLP(C) Diary No.33956/2025*** by dismissing the SLP of the Revenue on 16.07.2025. The ratio of the above judgments have thus been affirmed by the Supreme Court, thereby crystallising that only the FAO has jurisdiction to issue notices under Section 148 of the Act.

6. He has placed reliance on the judgment of the High Court of Judicature at Madras in ***Dadha Pharma LLP v. DCIT, WP No. 35385 of 2024*** wherein the High Court, had followed the ratio laid in ***Hexaware Technologies Ltd. (supra),*** while noting that the SLP against the same is pending before the Supreme Court.

7. Further, he submitted that the High Court for the State of Telangana in ***Arene Life Sciences Pvt. Ltd. v. Assessment Unit, Writ Petition No. 26645/2024 & connected matters*** has also held that where the assessment is centralized, the mandate of Section 144B read with Section 151A would apply in full rigour. Further, even the High Court of Bombay in ***Ganesh Nivrutti Jagtap v. Assistant Commissioner of Income Tax, Central Circle-5(3), Mumbai & Ors., Writ Petition (L) No. 18265/2024*** decided on 02.09.2024 has unequivocally held that the central circle charges are not carved out as an exception to the faceless regime, and are equally bound by the express mandate of Section 144B read with Section 151A of the Act. The Court categorically rejected the contention that the centralisation of a case provides any leeway to bypass the statutory framework, reiterating that all the assessments and reassessments under Section 147 of the Act must proceed strictly in accordance with the Faceless Assessment Scheme as notified by the CBDT. Even the Rajasthan High Court in ***Rajesh Todwal s/o Prem Chand Todwal v. Dgit (Inv.) Rajasthan, Income Tax and Ors., 2025:RJ-JP:35259-DB*** has likewise held that the central circle charges cannot be an exception to the faceless regime.

8. The submission of Mr. Abbas is that this Court in ***TKS Builders (P.) Ltd. v. Income Tax Officer, (2024) 167 taxmann.com 759 (Delhi)*** and subsequently in ***Mala Petrochemicals and Polymers v. Income Tax Officer & Ors., W.P.(C) 12011/2025*** and ***Mehak Jagga v. Income Tax Officer & Anr. W.P. (C) 13149/2025*** has erroneously recognised a concept of concurrent jurisdiction between JAO and FAO. He stated that the view propounded by this Court in ***TKS Builders (supra)*** runs contrary to the statutory mandate of Section 151A and the law laid down by the Supreme

Court. According to him, the judgments in ***Mala Petrochemicals and Polymers (supra)*** and ***Mehak Jagga (supra),*** having been rendered after the Supreme Court settled the position of law in ***Deepanjan Roy (supra)***, are *per incuriam*.

9. Further, he stated that the Supreme Court *vide* order dated 31.10.2025 in ***SLP (C) No. 29723/2025*** titled ***All India Kataria Education Society v. Assistant Commissioner of Income Tax, Central Circle 02, Delhi & Anr.***, arising from order dated 15.09.2025 passed by this Court in W.P.(C) 14225/2025 has issued notice and stayed the assessment proceedings till the next date of hearing. Similarly, in ***Yukti Export v. Income Tax officer***, ***SLP (C) No. 31818/2025*** arising out of order dated 26.09.2025 of this Court in W.P.(C) 15024/2025 and connected matters, the assessment proceedings has been stayed till the next date of hearing.

10. His contention is that accordingly, on the principle of parity, the present matters being founded on identical facts and issues, merit similar protection in the interest of consistency, fairness and judicial propriety.

11. That apart, he submitted that though this Court in ***P. C. Jeweller Ltd. v. ACIT, W.P.(C) 13229/2024*** dated 23.01.2025 had dismissed the writ petition by relying upon the ratio in ***TKS Builders (supra),*** the Supreme Court in SLP(C) Diary No. 13266/2025 *vide* order dated 04.04.2025 categorically directed that the Revenue may proceed with the reassessment proceedings, and any adverse order against the petitioner therein shall not be given effect to till further orders. According to him, this direction of the Supreme Court by necessary implication constitutes an interim stay, and any reliance on ***TKS Builders (supra)*** is no longer tenable in law.

12. He has sought the prayers as made in the petitions.

13. Mr. Anurag Ojha, learned Senior Standing Counsel for the Revenue submitted that this Court has followed a consistent position that insofar as the jurisdiction of Delhi is concerned, both JAO and FAO would have concurrent jurisdiction to initiate proceedings for reassessment.

14. He has endeavoured to controvert the reliance placed by Mr. Abbas on the order of the Supreme Court in ***Deepanjan Roy (supra)*** by stating that the dismissal of the SLP therein is a dismissal *in limine*, as it does not state any reasons for the dismissal. The same cannot be said to have settled the law, more so when the SLPs against the judgments in ***TKS Builders (supra)*** and ***Hexaware Technologies Ltd. (supra)*** are still pending adjudication.

15. He stated that since there has been no stay of the judgments of this Court, there is no reason to part with the view which has been consistently taken.

16. Having heard the learned counsel for the parties, we are of the view that the submission of Mr. Abbas cannot be accepted for the reason that this Court has settled the law relating to the issue in ***TKS Builders (supra)***, which though under challenge before the Supreme Court, has not been stayed.

17. This Court has maintained a consistent position, that both JAO and FAO possess concurrent jurisdiction to initiate reassessment proceedings under Section 148 of the Act. In fact, in ***PC Jeweller Ltd. (supra)***, a co-ordinate bench of this Court had dismissed a writ petition seeking similar relief by following the judgment in ***TKS Builders (supra)***. Though the said judgment has been taken in appeal before the Supreme Court, the Revenue has been permitted to continue the proceedings with a caveat that any order, if passed adverse to the petitioner therein shall not be given effect.

18. That apart, even in the cases of ***M/s Mala Petrochemicals and Polymers v. the Income Tax Officer & Ors. WP(C) 12011/2025,*** decided on 19.08.2025, ***Mehak Jagga v. ITO (W.P.(C) 13149/2025,*** decided on 28.08.2025, ***All India Kataria Education Society v. DCIT W.P.(C) 14225/2025,*** decided on 15.09.2025 and ***M/s Empire Fasteners v. The Assistant Commissioner of Income Tax & Anr. W.P.(C) 14754/2025,*** decided on 23.09.2025, we have dismissed similar petitions by relying upon ***TKS Builders Pvt. Ltd. (supra)***.

19. Mr. Abbas has put forth a contention that since the Supreme Court has dismissed the SLP preferred against the judgment of the Bombay High Court in ***Prakash Pandurang Patil (supra)***, wherein the High Court had held that only FAO would have the jurisdiction to initiate proceedings under Section 148 of the Act, thereby meaning that the decision has attained finality, and would, by necessary implication read down the judgment of this Court in ***TKS Builders (supra)***. We do not find any merit in the submission, for the reason that the Supreme Court while dismissing the SLP, had only stated that it does not find any merit in the SLP, without giving any detailed reasons.

20. In ***Fuljit Kaur vs. State of Punjab and Others, (2010) 11 SCC 455***, the Supreme Court in paragraph 7 has held as under:-

> *"7. There is no dispute to the settled proposition of law that dismissal of the special leave petition in limine by this Court does not mean that the reasoning of the judgment of the High Court against which the special leave petition has been filed before this Court stands affirmed or the judgment and order impugned merges with such order of this Court on dismissal of the petition.* ***<u>It</u>***

> ***simply means that this Court did not consider the case worth examining for the reason, which may be other than merit of the case. Nor such an order of this Court operates as res judicata. An order rejecting the special leave petition at the threshold without detailed reasons therefore does not constitute any declaration of law or a binding precedent.****"*
>
> *(Emphasis supplied)*

21. In this regard, we may refer to the judgment of the Supreme Court in ***State of Orissa and Another v. Dhirendra Sundar Das and Others, (2019) 6 SCC 270***, wherein it was observed as under:-

> *"9.27. It is a well-settled principle of law emerging from a catena of decisions of this Court, including Supreme Court Employees' Welfare Assn. V. Union of India [Supreme Court Employees' Welfare Assn. V. Union of India, (1989) 4 SCC 187, paras 22 and 23 : 1989 SCC (L&S) 569] and State of Punjab v. Davinder Pal Singh Bhullar [State of Punjab v. Davinder Pal Singh Bhullar, (2011) 14 SCC 770, paras 112 and 113 : (2012) 4 SCC (Civ) 1034 : (2012) 4 SCC (Cri) 496 : (2014) 1 SCC (L&S) 208] , that the dismissal of an SLP in limine simply implies that the case before this Court was not considered worthy of examination for a reason, which may be other than the merits of the case.* ***Such in limine dismissal at the threshold without giving any detailed reasons, does not constitute any declaration of law or a binding precedent under Article 141 of the Constitution****."*
>
> *(Emphasis supplied)*

22. Even in the judgment in ***Kunhayammed and Others v. State of Kerala & Ors. (2000) 6 SCC 359*** relied upon by Mr. Abbas, the Supreme Court has observed as under:-

40. A petition seeking grant of special leave to appeal may be rejected for several reasons. For example, it may be rejected (i) as barred by time, or (ii) being a defective presentation, (iii) the petitioner having no locus standi to file the petition, (iv) the conduct of the petitioner disentitling him to any indulgence by the court, (iv) the question raised by the petitioner for consideration by this Court being not fit for consideration or deserving being dealt with by the Apex Court of the country and so on. The expression often employed by this Court while disposing of such petitions are — "heard and dismissed", "dismissed", "dismissed as barred by time" and so on. May be that at the admission stage itself the opposite party appears on caveat or on notice and offers contest to the maintainability of the petition. ***The Court may apply its mind to the merit worthiness of the petitioner's prayer seeking leave to file an appeal and having formed an opinion may say "dismissed on merits". Such an order may be passed even ex parte, that is, in the absence of the opposite party. In any case, the dismissal would remain a dismissal by a non-speaking order where no reasons have been assigned and no law has been declared by the Supreme Court. The dismissal is not of the appeal but of the special leave petition. Even if the merits have been gone into, they are the merits of the special leave petition only. In our opinion neither doctrine of merger nor Article 141 of the Constitution is attracted to such an order. Grounds entitling exercise of review jurisdiction conferred by Order 47 Rule 1 CPC or any other statutory provision or allowing review of an order passed in exercise of writ or supervisory jurisdiction of the High Court (where also the***

principles underlying or emerging from Order 47 Rule 1 CPC act as guidelines) are not necessarily the same on which this Court exercises discretion to grant or not to grant special leave to appeal while disposing of a petition for the purpose. *Mere rejection of a special leave petition does not take away the jurisdiction of the court, tribunal or forum whose order forms the subject-matter of petition for special leave to review its own order if grounds for exercise of review jurisdiction are shown to exist. Where the order rejecting an SLP is a speaking order, that is, where reasons have been assigned by this Court for rejecting the petition for special leave and are stated in the order still the order remains the one rejecting prayer for the grant of leave to appeal. The petitioner has been turned away at the threshold without having been allowed to enter in the appellate jurisdiction of this Court. Here also the doctrine of merger would not apply. But the law stated or declared by this Court in its order shall attract applicability of Article 141 of the Constitution. The reasons assigned by this Court in its order expressing its adjudication (expressly or by necessary implication) on point of fact or law shall take away the jurisdiction of any other court, tribunal or authority to express any opinion in conflict with or in departure from the view taken by this Court because permitting to do so would be subversive of judicial discipline and an affront to the order of this Court. However this would be so not by reference to the doctrine of merger.*

41. Once a special leave petition has been granted, the doors for the exercise of appellate jurisdiction of this Court have been let open. The order impugned before the Supreme Court becomes an order appealed against. Any order

passed thereafter would be an appellate order and would attract the applicability of doctrine of merger. It would not make a difference whether the order is one of reversal or of modification or of dismissal affirming the order appealed against. It would also not make any difference if the order is a speaking or non-speaking one. Whenever this Court has felt inclined to apply its mind to the merits of the order put in issue before it though it may be inclined to affirm the same, it is customary with this Court to grant leave to appeal and thereafter dismiss the appeal itself (and not merely the petition for special leave) though at times the orders granting leave to appeal and dismissing the appeal are contained in the same order and at times the orders are quite brief. Nevertheless, the order shows the exercise of appellate jurisdiction and therein the merits of the order impugned having been subjected to judicial scrutiny of this Court.

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43. We may look at the issue from another angle. The Supreme Court cannot and does not reverse or modify the decree or order appealed against while deciding a petition for special leave to appeal. What is impugned before the Supreme Court can be reversed or modified only after granting leave to appeal and then assuming appellate jurisdiction over it. If the order impugned before the Supreme Court cannot be reversed or modified at the SLP stage obviously that order cannot also be affirmed at the SLP stage."

(Emphasis supplied)

23. Further, in ***Khoday Distilleries Ltd. & Others vs. Sri Mahadeshwara Sahakara Sakkare Karkhane Limited, Kollegal, (2019) 4 SCC 376,*** the

Supreme Court held as under:-

> *"26.2. We reiterate the conclusions relevant for these cases as under: (Kunhayammed case, SCC p. 384)*
> *"(iv) An order refusing special leave to appeal may be a non-speaking order or a speaking one. In either case it does not attract the doctrine of merger. An order refusing special leave to appeal does not stand substituted in place of the order under challenge. All that it means is that the Court was not inclined to exercise its discretion so as to allow the appeal being filed.*
> *(v) If the order refusing leave to appeal is a speaking order i.e. gives reasons for refusing the grant of leave, then the order has two implications. Firstly, the statement of law contained in the order is a declaration of law by the Supreme Court within the meaning of Article 141 of the Constitution. Secondly, other than the declaration of law, whatever is stated in the order are the findings recorded by the Supreme Court which would bind the parties thereto and also the court, tribunal or authority in any proceedings subsequent thereto by way of judicial discipline, the Supreme Court being the Apex Court of the country. But, this does not amount to saying that the order of the court, tribunal or authority below has stood merged in the order of the Supreme Court rejecting the special leave petition or that the order of the Supreme Court is the only order binding as res judicata in subsequent proceedings between the parties.*
> *(vi) Once leave to appeal has been granted and appellate jurisdiction of the Supreme Court has been invoked the order passed in appeal would attract the doctrine of merger; the order may be of reversal, modification or merely affirmation.*
> *(vii) On an appeal having been preferred or a*

petition seeking leave to appeal having been converted into an appeal before the Supreme Court the jurisdiction of the High Court to entertain a review petition is lost thereafter as provided by sub-rule (1) of Order 47 Rule 1 CPC."

24. Mr. Abbas has endeavoured to demonstrate that the reasons assigned by the Supreme Court, in ***Prakash Pandurang Patil (supra)***, which we have reproduced in paragraph 3 above, would make it clear that the SLP has been dismissed both on merits and on delay. According to him, this would mean that by necessary implication, the judgment in ***Hexaware Technologies Ltd. (supra)***, relied upon by the Bombay High Court in the impugned judgment therein, would stand affirmed and the judgment of this Court in ***TKS Builders (supra)*** would stand negated. This plea does not appeal to us, for the reason that the Supreme Court has only dismissed the SLP without dealing with the issue. Going by the above discussed judicial pronouncements, the same cannot be said to have set aside ***TKS Builders (supra)***. That apart, we find that the SLP preferred against ***TKS Builders (supra)*** is still pending adjudication before the Supreme Court.

25. As such, the judgment in ***TKS Builders (supra)*** would still hold the fort insofar as the jurisdiction of Delhi is concerned. We are bound by the same.

26. Insofar as, the submission of Mr. Abbas that this Court in ***TKS Builders (supra), Mala Petrochemicals and Polymers (supra)*** and ***Mehak Jagga (supra)***, has erroneously recognized a concept of concurrent jurisdiction between JAO and FAO is concerned. Suffice to state, the said issue is pending consideration before the Supreme Court.

27. Insofar as, his submission that the Supreme Court in SLP (C) 29723/2025, ***All India Kataria Education Society (supra),*** arising from the order dated 15.09.2025 passed by this Court in W.P. (C) 14225/2025, has issued notice and stayed the assessment proceedings till the next date of hearing and similarly in ***Yukti Export v. Income Tax officer (supra)***, which arises from the order passed by this Court in W.P. (C) 15024/2025 dated 26.09.2025 and connected matters, that assessment proceedings have been stayed, are concerned, the same are matter of record. The Supreme Court has not stayed the effect of the orders passed in the aforesaid two writ petitions based on the judgment in the case of ***TKS Builders (supra)***. Similar is the position, insofar as, the SLP filed by the assessee in the case of ***P. C. Jeweller Ltd.(supra)***.

28. In view of the above discussion, we find no merit in the present petitions, the same are dismissed. The pending applications having become infructuous are also dismissed.

V. KAMESWAR RAO, J

VINOD KUMAR, J

NOVEMBER 21, 2025
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