2026 LiveLaw (SC) 436

IN THE SUPREME COURT OF INDIA

SURYA KANT; CJI., B.V. NAGARATHNA; J., JOYMALYA BAGCHI; J.

APRIL 10, 2026

[Diary No.55409/2025] CIVIL APPEAL NO. OF 2026

(Arising out of SLP(C) No. of 2026) [Diary No.32669/2025]

Asst Commissioner of Income Tax *versus* **Aristo Pharmaceuticals Private Ltd.**

Income Tax Act, 1961 — Reassessment Mechanism — Jurisdictional Assessing Officer (JAO) vs. Faceless Assessing Officer (FAO) — Intervening Clarificatory Legislation with Retrospective Effect - Income Tax Act, 1961; Sections 147, 148, 148A, 151A and newly inserted Section 147A — Income Tax Act, 2025; Sections 273(3), 279, 280 and 281 — Finance Act, 2026 (Act No. 4 of 2026) - Friction arose between the traditional reassessment procedure by the Jurisdictional Assessing Officer (JAO) and the 'e-Assessment of Income Escaping Assessment Scheme, 2022' under Section 151A, which mandated a faceless mechanism - High Courts expressed divergent views: some held JAO and National Faceless Assessment Centre (NFAC) exercise concurrent jurisdiction, while others quashed notices issued by JAOs, holding that authority vested exclusively with the faceless units - During the pendency of the appeals before the Supreme Court, Parliament enacted the Finance Act, 2026 (effective 01.04.2026), retrospectively inserting Section 147A into the IT Act with effect from 01.04.2021 - Section 147A explicitly clarifies that the "Assessing Officer" for the purposes of Sections 148 and 148A means and shall always be deemed to have meant an officer other than the NFAC or any faceless assessment unit - A corresponding amendment was made to Section 279 of the Income Tax Act, 2025 - Since the High Courts primarily quashed the reassessment notices on the ground that JAOs lacked competence, and the statutory foundation of that view stands fundamentally altered by the retrospective amending legislation, the impugned judgments are set aside on this limited ground - The Supreme Court remitted the entire batch of matters back to the respective High Courts for fresh consideration - The Supreme Court did not express any opinion on the validity, scope, effect, retrospectivity, or applicability of the amended provisions, leaving all questions open - Assessees are granted liberty to amend their writ petitions within four weeks to challenge the validity of Section 147A of the IT Act or any consequential provision - Revenue is given three weeks thereafter to file written submissions - An interim stay on further assessment/reassessment proceedings pursuant to the impugned notices shall operate during the pendency of writ petitions before the High Courts, subject to conditions - High Courts are requested to decide the matters expeditiously, preferably by 30.09.2026. *[Paras 14-27]*

O R D E R

1. On oral mentioning, Diary Nos. 57737/2025, 37087/2025, 57395/2025, 55409/2025 & 32669/2025 are taken on Board and heard along with this batch of matters.

2. Permission to appear and argue in-person is allowed.

3. Delay condoned.

4. Leave granted.

5. In a nutshell, the genesis of this batch of thousands of appeals originates from reassessment proceedings initiated under the Income-tax Act, 1961 (IT Act). The impugned judgments of several High Courts have set aside orders passed under Section

148A(d) of the IT Act and consequential notices issued under Section 148 of the IT Act on the ground that they were issued by the Jurisdictional Assessing Officer(s) (JAO), rather than through the prescribed faceless mechanism or competent Faceless Assessment Officer(s) (FAO). It is pertinent to note that certain other High Courts, while considering the same issue, have adopted a contrary view and upheld the authority of the JAO.

6. Given the common question of law involved and the divergent views expressed by various High Courts, we propose to dispose of this batch of matters by this common order.

7. We have heard Mr. N. Venkataraman, learned Additional Solicitor General of India, on behalf of the Appellant-Revenue, and a battery of senior counsels on behalf of the assessees.

8. To briefly set out the background, the present issue stems from the legislative changes introduced to the reassessment framework under Sections 147 to 151 of the IT Act, by the Finance Act, 2021 enacted on 28.03.2021 and which came into force on 01.04.2021. These amendments, particularly to Sections 147 to 149 and Section 151 to the IT Act, were brought into force with a view to protecting the rights and interests of the assesses.

9. As per this statutory scheme, Section 147 contemplated that the 'Assessing Officer', namely the JAO, would initiate reassessment proceedings where there was information suggesting that income chargeable to tax had escaped assessment for a past assessment year. Thereafter, a prenotice inquiry would be undertaken under Section 148A, during which the assessee was afforded an opportunity of hearing. Following this, the JAO considered the material and decided whether the information warranted the issuance of a statutory notice under Section 148 for reassessment.

10. That being the state of affairs, a scheme under Section 151A, titled the 'e-Assessment of Income Escaping Assessment Scheme' (Scheme), was thereafter introduced by the Central Board of Direct Taxes (CBDT) vide Notification No. 18/2022 dated 29.03.2022, with the objective of enhancing efficiency, transparency and accountability. The Scheme provides that assessment, reassessment or recomputation under Section 147, and issuance of notice under Section 148, shall be carried out through (i) automated allocation; and (ii) a faceless mechanism. The contents of the notification setting out the Scheme are reproduced hereinafter:

"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 ofIncome Escaping Assessment Scheme, 2022.*

(2) *It shall come into force with effect from thedate 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 undersection 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."

11. Consequently, a degree of friction appears to have arisen between the procedure envisaged under the Scheme and that contained in the provisions of the IT Act. Specifically, the issue concerns whether, following the introduction of the Scheme vesting such functions in Faceless Assessing Units, the Jurisdictional Assessing Officer (JAO) continues to retain the authority to issue notices and pass orders under Section 148A(d) of the Act or whether such authority vests exclusively with the 'National Faceless Assessment Centre' (NFAC).

12. In this backdrop, a large number of petitions came to be filed before various jurisdictional High Courts. The High Courts, upon interpreting the relevant provisions, have expressed divergent views. While some have held that the JAO and the NFAC exercise concurrent jurisdiction, and that the Scheme does not entirely displace the role of the JAO, others have taken a contrary view. In the latter line of decisions, petitions preferred by assessees were allowed, and notices issued under Section 148 of the Income-tax Act, 1961, were set aside on the ground that they were not issued through the faceless mechanism, thereby vitiating the subsequent proceedings, including the final assessment orders.

13. Ultimately, this legal impasse has led to a large batch of appeals before this Court, predominantly preferred by the Appellant-Revenue, challenging the decisions rendered by various High Courts across the country.

14. Notably, during the pendency of these appeals, and in view of the prevailing uncertainty, the Parliament has intervened through Act No. 4 of 2026, namely the Finance Act, 2026, which came into force on 01.04.2026, by introducing clarificatory provisions into the IT Act and the Income Tax Act, 2025, with a view to ensuring greater procedural clarity and certainty. Learned Additional Solicitor General, appearing on behalf of the Revenue, submitted that the intention of the Parliament while bringing in these recent amendments was to clearly demarcate the assessment procedure from the pre-assessment stage of enquiry till the reassessment order is passed.

15. It is stated by the Learned Assistant Solicitor General that by inserting Section 147A into the IT Act, the term 'Assessing Officer' has been expressly clarified to mean an officer other than the faceless units and the same is deemed to have come into effect retrospectively from 01.04.2021. The said provision reads as follows:

Insertion of new section 147A.

9. After section 147 of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2021, namely:—

"147A. Notwithstanding anything contained in any judgement, order or decree of any court or in section 151A or in any scheme framed thereunder, for the removal of doubts, it is hereby clarified that the Assessing Officer for the purposes of sections 148 and 148A shall mean and shall always be deemed to have meant to be an Assessing Officer other than the National Faceless Assessment Centre or any assessment unit referred to in sub-section (3) of section 144B.".

16. It is also asserted that the amendment to Section 279 of the Income Tax Act, 2025 is to bring it in consonance with the newly inserted Section 147A of the IT Act, thereby implying that the "Assessing Officer" for the purposes of Sections 280 and 281 of the Income Tax Act, 2025 shall mean to be an Assessing Officer other than the NFAC or any assessment unit referred to in Section 273(3). The amended Section 279 reads as follows:

71. In section 279 of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted, namely: — '(3) The "Assessing Officer" for the purposes of sections 280 and 281 shall mean to be an Assessing Officer other than the National Faceless Assessment Centre or any assessment unit referred to in section 273(3).'

17. In this backdrop, where an interpretative issue concerning the older provisions is already under consideration, it is contended on behalf of the Appellant-Revenue that the Parliament, from the outset, intended that while notices could be issued by either the JAO or the Faceless Assessing Officer (FAO), the subsequent quasi-judicial adjudication of such notices was to be undertaken by the FAOs.

18. It is urged that, in light of the divergent views taken by the High Courts owing to perceived ambiguity in the existing law, Parliament has now made the clarificatory amendment with retrospective effect from 01.04.2021, the date on which the original provisions came into force, and that the alleged anomalous situation, if any, has been removed. It was additionally submitted that the power to enact retrospective amendments is well settled in law, and that fresh notices will now be issued to assessees in accordance with the clarified position, so that pending reassessment proceedings may be concluded in accordance with law.

19. Conversely, it has been vehemently urged on behalf of the assessees that the new Amendment is not 'clarificatory' in nature but is rather an abortive attempt to fasten penal liability retrospectively, which is impermissible under law. It is their contention that the amending laws having antedated civil consequences ought to be construed strictly.

20. In all fairness, we may add that several other contentions have also been raised by both sides, which we do not consider it necessary to advert to at this stage in light of the order we propose to pass. In the facts of the present batch, we are of the considered view that it is not necessary for this Court to examine the merits of the rival submissions concerning the correctness of the impugned judgments or the scope of the competing precedents at this juncture.

21. It appears to us that the assessees would be entitled to challenge the amending provisions as elaborated upon heretofore, for which it would only be appropriate to relegate them to the jurisdictional High Courts. All contentions raised before us, as well as any other grounds available to them to question the impugned notices, may be urged before the High Courts instead.

22. Since the High Courts have primarily quashed the reassessment notices on the ground that the JAOs lacked competence to initiate such proceedings, and the very foundation of that view now stands altered by the amending legislation, the impugned judgments in favor of the assessees are set aside on this limited ground. The matters are accordingly remitted to the respective High Courts for fresh consideration. Ordered accordingly.

23. The assessees are granted liberty to amend their writ petitions, if so advised, within a period of four (4) weeks from the date of uploading of this order, so as to enable them to lay challenge to Section 147A of the IT Act, as introduced by Act No. 4 of 2026, or to any other connected or consequential provision.

24. Similarly, the Appellant-Revenue shall be at liberty to file their written submissions and affidavits before the jurisdictional High Courts within a period of three (3) weeks thereafter.

25. No additional time shall be granted to the parties beyond what has been granted above.

26. We make it clear that we have not expressed any opinion on the merits of the controversy, including the validity, scope, effect, retrospectivity or applicability of the amended provisions, and all such questions are left open to be decided by the High Courts.

27. Finally, during the pendency of the writ petitions before the High Courts, there shall be an *interim* stay of further assessment/reassessment proceedings pursuant to the impugned notices, subject to such terms and conditions as may be imposed by the High Courts.

28. The High Courts are requested to decide the matters preferably by 30.09.2026. Learned counsel for the parties undertake to extend full cooperation to the High Courts in this regard. No adjournments may be granted by the High Courts on mere asking of the parties.

29. The Registry shall forthwith transmit a copy of this order to the Registrars General of the concerned High Courts.

30. The appeals are, accordingly, disposed of.

31. All pending applications, including intervention application(s), shall also stand disposed of.