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High Court Rulings

Clear cut violation of section 144C and section 144B(1)(xxi) to (xxix) setting aside the assessment order where a final assessment order was passed by Faceless Officer without serving a draft assessment order to enable it to approach DRP

Facts

The Petitioner is an “eligible assessee” as contemplated u/s 144C(15)(b)(i) and therefore, before any final assessment order was passed which was prejudicial to the interest of the assessee, the AO have passed a draft assessment order and served it on the Petitioner so as to enable it to file its objections (to the draft assessment order) before the Dispute Resolution Panel as per section 144C. The petitioner contended that if no draft assessment order has been passed and served on the Petitioner, the final assessment order cannot stand.

Ruling

HC placed reliance on in the case of Danfoss Fluid Power(P.) Ltd. v. Union of India [2025] 179 taxmann.com 283 (Bombay) and held that the provisions of Section 144B(1) and more particularly Sections 144B(1)(xxi) to 144B(1)(xxix), clearly stipulate that in case of an eligible assessee, a draft assessment order has to be served on the Petitioner to enable the Petitioner to approach the DRP, which has not been done in the present case. HC highlighted the facts that final assessment order has been directly passed by the Faceless Officer without serving a draft assessment order on the Petitioner to enable it to approach the DRP which is in clear violation not only of the provisions of Section 144C but also of Section 144B(1)(xxi) to

(xxix) thereof. Once this is the case, the final assessment order in the above Petition cannot stand and would have to be set aside.

Further, HC also stated that there is no reason to remand the matter back to the AO. If the AO, in law, is entitled to initiate this process again by passing a fresh draft assessment order and serving it upon the Petitioner, they are free to do so if they are entitled to do in law.

Source: High Court, Bombay in the case of Barentz India (P.) Ltd. vs Assessment Unit, National Faceless Assessment Centre, New Delhi vide [2025] 179 taxmann.com 582 (Bombay) on October 13, 2025



Impugned proceedings were set aside where reassessment proceedings u/s 148A and 148 were initiated by Jurisdictional AO after introduction of e-Assessment of Income Escaping Assessment Scheme, 2022 u/s 151A without jurisdiction.

Facts

The writ petition has been filed to challenge the initiation of proceedings u/s 148(A) and 148 by the Jurisdictional Assessing Officer. The proceedings initiated u/s 148(A) followed by notice u/s 148 for reopening the assessment by the JAO. The dates of the impugned notices and proceedings are post 29-03-2022 i.e., the date on which the Central Government in exercise of the powers conferred u/s 151A has made the e-Assessment of Income Escaping Assessment Scheme, 2002 vide Notification No. 18 of 2022.

Ruling

HC have considered the submissions of the learned counsel for the parties and the relevant factual assertion made by the petitioners that the impugned proceedings have been initiated by the JAO after coming into force of the Faceless Scheme with effect from 29.03.2022. They indicate the relevant assessment year, the date of notice issued u/s 148A, the date of the order u/s 148, sanction date u/s 151 of the Act, intimation to proceed with assessment u/s 144B in some cases, the date of assessment order in some of the cases as against the individual writ petitions. From the perusal of the tabulation chart, it is apparent that the impugned proceedings in all these cases have been initiated by JAO after coming into force of the

Faceless Scheme with effect from 29-03-22. The legal issue as regards the lack of jurisdiction on the part of JAO to initiate the proceedings post implementation of the Faceless Scheme is no longer res integra as it has been held in the case of Kankanala Ravindra Reddy.

HC further observed that since we are inclined to dispose of the instant writ petition, conscious of the fact that the earlier order of this HC in the case of Kanakala Ravindra Reddy is subjected to challenge before the Hon'ble Supreme Court in SLP No.3574 of 2024, preferred by the ITD, we make it clear that allowing of the instant writ petition is subject to outcome of the aforesaid SLP preferred by the Revenue against the decision of this HC. This, in other words, would mean that either of the parties, if they so want, may move an appropriate petition seeking revival of this writ petition in the light of the decision of the Hon'ble Supreme Court in the pending SLP on the very same issue. Accordingly, the instant writ petition stands allowed in favour of the assessee so far as the issue of jurisdiction is concerned. Therefore, the impugned notice under challenge u/s 148A and 148 stands set aside.

Source: High Court, Telangana in the case of Yashnu Yavasvi Polucherla vs ITO vide [2025] 179 taxmann.com 470 (Telangana) on October 16, 2025



Provisions of section 44AB does not apply to activity of operating canteens through mutuality for police personnel. The activity of conducting transactions only with its members did not amount to “business or profession”, therefore penalty levied u/s 271B for non-filing of tax audit report was deleted.

Facts

The petitioner is Unit set up under Tamil Nadu’s government to cater to the requirement of police personnel of household items such as groceries which the petitioner procures from various suppliers and distributes to 9-unit canteens which serve the requirements of police personnel. The petitioner is established to serve them without any profit motive and established on the principles of mutuality. The petitioner had filed its return for the AY 2022-23 declaring nil income. The petitioner's case was selected for scrutiny for showing substantially lower turnover in the return in comparison to turnover shown in GST returns and also has reported huge turnover exceeding statutory limit for tax audit as per section 44AB and tax audit report has not been filed.

During the assessment proceedings, the petitioner filed the details called for from time to time before the AO who concluded the assessment u/s 143(3) by accepting the return filed by the petitioner under the concept of principles of mutuality. However, the AO initiated separate penalty proceedings u/s 271B for non-filing of tax audit report u/s 44AB. Subsequently the AO issued notice u/s 274 r.w.s. 271B and subsequently levied penalty of Rs. 1,50,000 u/s 271B for failing to furnish the tax audit report. The AO found that the assessee had transacted a turnover to the tune of INR 32.33 crores during the impugned AY but not filed the tax audit report. Aggrieved by the penalty order, the petitioner preferred an appeal before the Id. CIT(A) who confirmed the same, aggrieved with which, the petitioner is before ITAT.

Rulings

ITAT observed that all transactions undertaken by the petitioner were exclusively with its members, and the same were reported under the GST regime. The AO, after a detailed scrutiny, accepted the returned income on the basis of mutuality, thereby acknowledging that the petitioner was not carrying on any “business” or “profession” as contemplated under the Act. ITAT held that it is well settled that the provisions of Section 44AB apply only to income under the head "Profits and gains of business or profession." In the present case, since the petitioner's activities do not fall within the ambit of "business or profession," the provisions of 44AB are inapplicable. Therefore, the levy of penalty u/s 271B for failure to file the tax audit report u/s 44AB is not tenable under the present circumstances of the case.

Source : ITAT, Chennai in the case of Commissioner of Police Coimbatore City Tamilnadu Police Canteen vs ITO vide [2025] 179 taxmann.com 639 (Chennai - Trib) on October 16, 2025.



Subsequent withdrawal of approval or cancellation of registration u/s 12AA(3) could not justify disallowance of deduction u/s 35AC in case where assessee had made donations to a trust having valid approval u/s 35AC at time of payment, and there was no evidence that such donation was bogus or returned in cash.

Facts

The assessee company filed its return for AY 2012-13 declaring total income of INR 6.95 crores. The case was selected for scrutiny and assessment was completed u/s 143(3) at an income of INR 7.19 crores. Subsequently the case was reopened based on the information received from the Investigation wing that the assessee had given donation of INR 25 lacs during the year to M/s Navjeevan Charitable Trust for the purpose of deduction u/s 35AC which was not a genuine transaction. Accordingly, notice u/s 148 was issued in response to which the assessee filed its return declaring same income as in the original return. During the reassessment, statement of Shri. Devdas Prabhakaran Nair, Advisor of the assessee company was also recorded in which he accepted that donation had been given to Navjeevan Charitable Trust but claimed that he was not aware about the bogus activities of the Trust. The Id. AO noted that during search conducted on Navjeevan Charitable Trust, it had been found that it was in receipt of donation from various parties through banking channel and the donation was returned back to the parties as payment of expenses. The trustees of the Trust accepted that the donors gave cheques to the trust so that they claim deduction u/s 35AC and received back the amount in cash. Further the recognition of the Trust was withdrawn by the National Committee

vide notification dated 30/11/2016 and the registration u/s 12AA (3) was also cancelled by the PCIT (Central)-I, Mumbai. Aggrieved, the assessee preferred an appeal before Id. CIT(A) who confirmed the order of the Id. AO, against which the assessee is in appeal before the Id. Tribunal.

Ruling

ITAT held that Id. AO had received information from the Investigation wing in respect of search/survey action conducted against the trust during which the donee trust was found to be providing accommodation entries and the amounts received were returned to the parties after deduction of commission as stated by the trustee in statement recorded on oath. He reiterated that the assessee had made genuine payment of the impugned donation to Navjeevan Charitable Trust. However, Id. AO did not accept the claim of the assessee and relying solely upon the report of Investigation wing and statement of the trustee recorded by the wing, made the impugned addition in the hands of the assessee after disallowing the claim of deduction u/s 35AC. ITAT after careful consideration of the facts and circumstances in the light of legal provisions held that the entire donations received by the trust have to be added in its hands in the year of withdrawal of notification and charged at the MMR. Accordingly, disallowance of the claim of deduction u/s 35 AC in the hands of the assessee could not have been made more so without establishing that it had made a bogus donation and money was received back in cash.

Source : ITAT, Mumbai in the case of Raman and Weil (P.) Ltd. vs DCIT vide [2025] 179 taxmann.com 569 (Mumbai - Trib) on October 17, 2025.



ITAT Rulings

Where assessee company opted for taxation u/s 115BAA, rate of tax applicable in respect of total income, including Long Term Capital Gain, would be 22% as per section 115BAA and not 20% u/s 112.

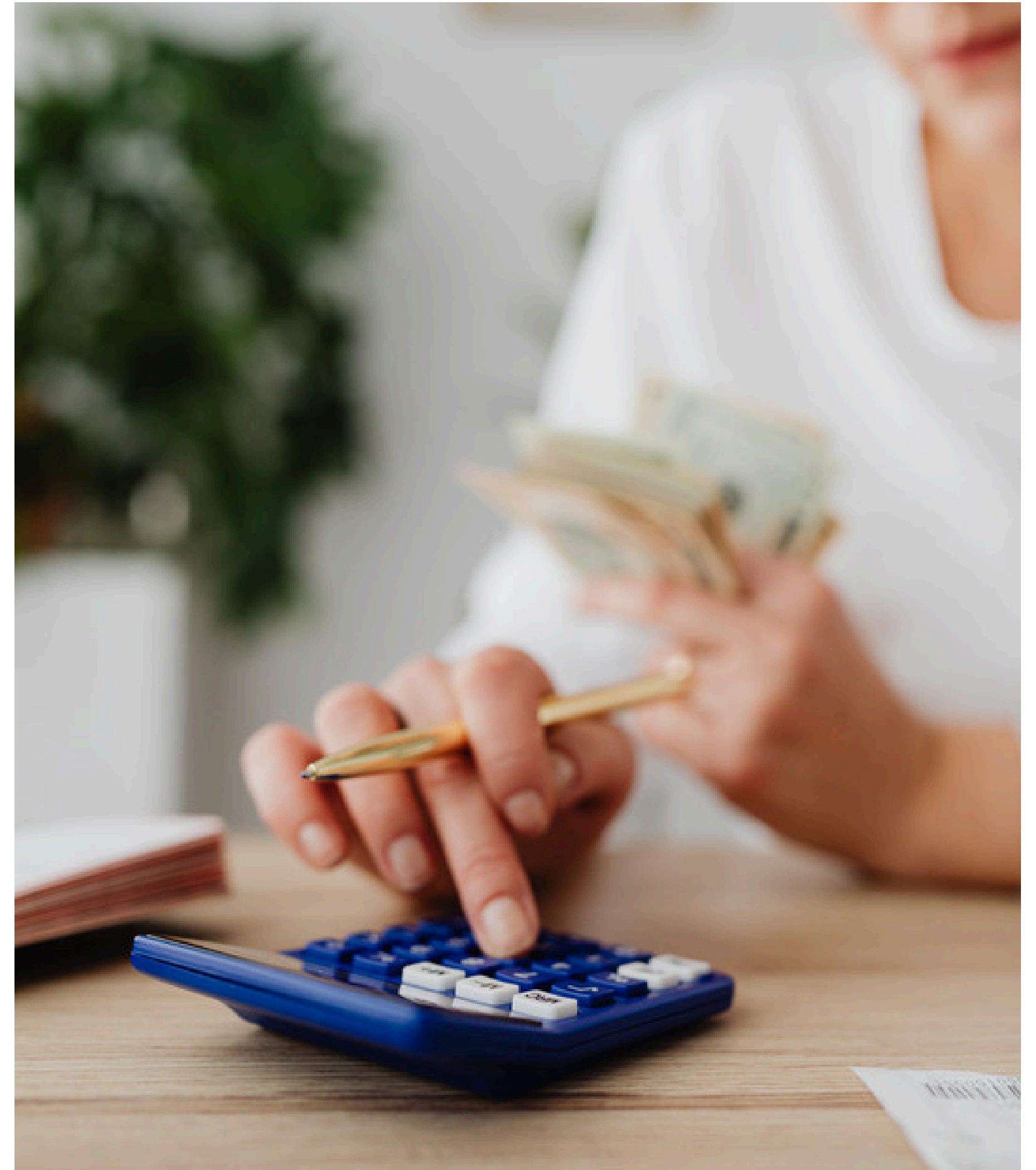
Facts

The petitioner is a domestic company and is in appeal on account of rate of tax applied by the AO u/s 115BAA. As per the petitioner, the rate of tax applicable is 20% as prescribed u/s 112, whereas, the AO has held that the tax on LTCG as per section 115BAA is @22%. The petitioner exercised an option u/s. 115BAA by filing Form 10IC for FY 2019-20 and subsequent years and filed its return of income for the year declaring income of INR 14.98 lacs consisting of loss of INR 20,263 and LTCG of INR 15.18 lacs on sale of land. The petitioner calculated tax @20% as per the provisions of section 112 and paid the tax accordingly. The return was processed u/s 143(1) and an additional demand of INR 59,973 was raised after re-computation of tax @22% on the returned income. The petitioner filed appeal before the CIT(A) assailing rate of tax @22%. The short contention of the petitioner is that on LTCG, the rate of tax should be 20% as provided u/s 112.

Rulings

ITAT held that according to the Revenue, since the petitioner has opted for taxation u/s 115BAA, the rate of tax applicable for the year is 22%. Admittedly, the petitioner has opted for taxation u/s 115BAA, hence, the rate of tax applicable in respect of total income of the assessee company is 22%. In the result, appeal of the petitioner is dismissed.

Source : ITAT, Delhi in the case of Maharishi Education Corporation P. Ltd. vs ITO vide [2025] 179 taxmann.com 698 (Delhi - Trib) on October 24, 2025



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