



P&H HC: Quashes Reassessment Notices Issued By Jurisdictional Assessing Officer (JAO) & Strikes Down Section 147A As Unconstitutional

Facts of the case:

Ms. Jyoti Sareen ('Petitioner') filed its return of income for the AY 2020-21, which was duly processed u/s 143(1) of the Act. On March 15, 2024, a notice was issued u/s 148 of the Act by her jurisdictional Assessing Officer ('JAO'), seeking to reopen the assessment on the ground that a search u/s 132 had been conducted on a person in respect of which the Petitioner was assessable. The notice claimed to have been issued with the prior approval of the PCIT; however, neither such approval, nor the reasons for reopening, was furnished to the Petitioner.

The Petitioner challenged the notice by way of Writ Petition before the P&H HC. The HC by order dated July 19, 2024, allowed the petition and quashed the notice, holding that a notice u/s 148 issued by the JAO (rather than a Faceless Assessing Officer ('FAO')) violated section 151A of the Act, read with the scheme framed thereunder.

The Revenue carried the matter to the Supreme Court by way of Special Leave Petition (SLP). While the SLP, along with a batch of connected SLPs filed by aggrieved taxpayers and the Revenue from across the country, was pending, the Finance Bill 2026 introduced section 147A, with retrospective effect from April 1, 2021. Section 147A opens with a non-obstante clause overriding any judgment, order or decree of any court, and clarifies that the 'Assessing Officer' for the purposes of sections 148 and 148A shall mean, and shall always be deemed to have meant, an Assessing Officer, other than the National Faceless Assessment Centre (NFAC) or any assessment unit u/s 144B(3) of the Act (i.e. JAO).

In view of the retrospective amendment, the Supreme Court, by order dated April 10, 2026, set aside the impugned HC judgments and remitted the matters to the respective jurisdictional HCs for fresh consideration, expressly leaving open all questions on the validity, scope, effect, retrospectivity and applicability of section 147A of the Act. Taxpayers were granted liberty to amend their writ petitions to challenge section 147A, an interim stay of reassessment proceedings was granted, and the HCs were requested to decide the matters preferably by September 30, 2026. Pursuant to this liberty, the Petitioner amended her writ petition to also challenge the constitutional validity of section 147A of the Act.

Before the HC, two questions were raised: first, whether section 147A was constitutionally valid; and second, even if valid, whether reassessment notices issued u/s 148 by JAO (rather than through random, automated, faceless allocation u/s 151A) were sustainable in law.

Contentions of the Petitioner

The Petitioner contended that the provisions of section 147A were unconstitutional and the notice issued for re-opening be quashed. Following contentions were taken by the Petitioner:

The retrospective enactment of section 147A, without amending section 151A or section 130 of the Act and the schemes framed thereunder, is a glaring example of legislative overreach and a breach of the doctrine of separation of powers between the legislature and the judiciary, which the Constitution seeks to preserve.



Merely because section 147A begins with a non-obstante clause, it cannot nullify the effect of the law laid down by HCs. Section 151A read with the scheme dated March 29, 2022, which continues to exist unamended on the statute book and clearly requires notices u/s 148 to be issued through random, automated and faceless allocation, is in direct conflict with the retrospective 'clarification' sought to be introduced through section 147A of the Act.

Section 147A is also in conflict with section 130 of the Act, read with the Faceless scheme, under which all functions of income-tax authorities are required to be discharged through the faceless regime u/s 144B of the Act.

As per the Memorandum to the Finance Bill, 2026, section 147A was introduced to achieve certainty and clarity and to avoid litigation; however, its introduction has resulted in the exact opposite, i.e. spawning fresh litigation in at least eight HCs across the country, a consequence that could have been avoided had the Revenue invited an authoritative opinion of the Supreme Court on the SLPs that were already pending before it.

The timing of section 147A of the Act, introduced while the very question of jurisdiction to issue notices u/s 148 was sub-judice before the Supreme Court, effectively stalled an opinion of the Supreme Court that was highly desirable for a final quietus to the controversy.

Partial implementation of the faceless regime, by applying it only at the assessment stage while excluding the pre-assessment/notice stage u/ss 148A and 148 of the Act, defeats the entire object and purpose behind introduction of the faceless scheme, namely, elimination of human interface between the assessee and the tax authority.

Section 147A artificially bifurcates what is statutorily an integral, continuous process, since proceedings u/ss 147 and 148 of the Act are inseparably linked.

In the alternative, even if section 147A were held to be intra vires, the impugned notices u/s 148 remain liable to be set aside, since they were not issued by Assessing Officers chosen randomly through automated allocation, as mandated by section 151A read with the scheme.

For the above contentions, reliance was placed on number of decisions, including the decisions rendered by Supreme Court.

Contentions of the Revenue

The Revenue resisted the challenge on following grounds:

A harmonious reading of sections 130, 135A, 144B, 147, 148, 148A and 151A of the Act, together with the schemes framed thereunder, leads to the conclusion that a JAO is entitled to conduct the pre-assessment process and to issue notice u/s 148 of the Act.

Section 147A of the Act was rendered necessary because the law stood repealed with effect from April 1, 2026 upon enactment of the new income-tax legislation, so that no ordinary amendment to the Act could thereafter be carried out; a retrospective clarificatory provision was accordingly the only available legislative route.

More than 95% of taxpayers across the country had already submitted to notices issued by their JAO and the aggregate financial stake involved was stated to be approximately Rs. 17 lakh crore; an adverse ruling at this stage could have far-reaching adverse fiscal consequences for both the national exchequer and public interest, and a central legislation of this nature mandates uniformity of assessment practice across jurisdictions.



The faceless mandate u/s 144B is fully and faithfully implemented at the assessment, reassessment and re-computation stage. The controversy raised by the Petitioner is confined only to the pre-assessment stage u/ss 148A/148, which, on a correct reading of the statutory scheme, need not be conducted in a faceless manner. The scheme framed u/s 130 is wholly faceless, the scheme u/s 135A is wholly non-faceless, while the scheme u/s 151A is a 'hybrid' scheme.

An assessee has no fundamental or constitutional right to insist upon a particular officer, faceless or otherwise, conducting the assessment; an assessee is entitled only to a fair assessment. The plea raised is, therefore, 'extremely hyper-technical', since the entire process, whether conducted by the JAO or FAO, is carried out electronically with no personal interface in either case.

The non-obstante clause in section 147A is intended precisely to alter the very basis of the HC judgments rendered against the Revenue, by clarifying that section 148A proceedings culminating in notices u/s 148, issued by the JAO, are deemed always to have been validly issued. Parliament, being sovereign and plenary, is competent to enact retrospective laws that extinguish vested rights, and the mode and manner of validating legislation is a legislative privilege that courts cannot circumscribe.

In the alternative, notifications dated October 20, 2014, March 31, 2021 and June 10, 2022 issued u/s 120 of the Act, conferred concurrent jurisdiction on both the JAO and the FAO; since these notifications were never withdrawn, and since section 151A and the scheme thereunder make no reference at all to section 148A, the impugned notices issued by JAO cannot be said to be without jurisdiction.

The Revenue placed reliance on number of decisions in support of the legislature's power to enact validating legislation retrospectively.

Ruling of the P&H HC:

The P&H HC upheld the view taken by the Petitioner and allowed the writ petition, holding section 147A of the Act to be unconstitutional and quashed the notice for re-opening issued by the JAO. While rendering this decision, the P&H HC observed as follows:

The legislature cannot, by a mere non-obstante declaration, directly annul or overrule a judicial decision. Validating legislation is permissible only where it genuinely removes the very defect or foundation identified by the Court in its judgment, such that a Court applying the amended law would no longer arrive at the same conclusion. Judged by this test. Section 147A fails as the non-obstante clause is 'conspicuously silent' with regard to section 151A and the scheme framed thereunder, and does not amend either. The defect identified by the constitutional Courts, that section 151A of the Act mandates random, faceless, automated allocation for notices u/s 148 of the Act, therefore stands uncured.

Since section 147A and section 151A (with its scheme) continue to exist simultaneously and are irreconcilable on the question of who may issue a notice u/s 148, the retrospective amendment produces confusion rather than the certainty and clarity claimed in the Memorandum to the Finance Bill, 2026 and it has bred fresh litigation across at least eight HCs, contrary to its stated objective.

When cross SLPs on the very same issue were already pending before the Supreme Court, it would have been more appropriate for the Revenue to have invited a definitive ruling from the Supreme Court rather than short-circuit that process through a retrospective legislative 'clarification', which has 'literally stalled' an opinion of the Supreme Court that was highly desirable.

Applying the faceless mandate only at the assessment stage, while leaving the pre-assessment/notice stage u/ss 148A/148 open to the JAO defeats the object of the faceless regime, and section 147A is arbitrary in artificially bifurcating stages of what is statutorily an integral, continuous reassessment process u/ss 147 and 148 of the Act.



Relying on the principles distilled from *CIT v. Vatika Township Pvt. Ltd.* (2015) 1 SCC 1 and allied authorities cited by the Petitioner, the HC held that a validating law must cure the defect that formed the basis of the earlier judicial pronouncement; a retrospective amendment that leaves the offending provision (section 151A and its scheme) untouched cannot achieve validation, however sovereign and plenary the legislative power otherwise is.

The HC undertook a detailed textual analysis of Clause 3 of the scheme (dated March 29, 2022), and held that clause 3(a) governs assessment / reassessment u/s 147, while clause 3(b) squarely governs issuance of notice u/s 148 of the Act, both being mandated to proceed through automated allocation and in a faceless manner. Accepting the Revenue's narrower reading (that the faceless requirement attaches only to assessment and not to notice) would render clause 3(b), and indeed the entire scheme, otiose and a dead letter — an interpretation impermissible in law, since no statutory provision may be construed as surplusage (applying *Hardeep Singh v. State of Punjab*, (2014) 3 SCC 92).

The HC invoked the well-settled principle that where a statute prescribes a thing to be done in a particular manner, it must be done in that manner alone and in no other manner. Since section 151A read with the scheme prescribes random, automated, faceless allocation as the exclusive manner of issuing a section 148 notice, no other manner of issuance is legally permissible.

The Revenue's reliance on internal office memoranda, and on notifications issued u/s 120 conferring purported concurrent jurisdiction, was rejected. On the strength of the Constitution Bench ruling in *Commissioner of Central Excise, Bolpur v. Ratan Melting & Wire Industries*, (2008) 13 SCC 1, a circular contrary to a statutory provision 'has really no existence in law'; and accepting concurrent jurisdiction would defeat the very purpose of section 151A and render the scheme, a dead letter.

The HC expressly agreed with the Bombay High Court (decision in the case of *Hexaware Technologies Ltd. and Kairos Properties Pvt. Ltd.*), the Telangana High Court (decision in the case of *Kankanala Ravindra Reddy*), the Gauhati High Court (decision in the case of *Ram Narayan Sah*), etc., all of which held that only a FAO can validly issue a notice u/s 148. The HC respectfully differed from the contrary view taken by the Delhi HC in *T.K.S. Builders (P) Ltd.*, the Gujarat HC in *Snehdham Trust*, and the Calcutta HC in *Triton Overseas (P) Ltd.*

Citation:

Jyoti Sareen v. UOI & Others [TS-1442-HC-2025(P&H)]

Our Comments:

This has been a highly controversial issue and the matter is pending before various HCs. Subsequent to this ruling, the Revenue has preferred a SLP before the Supreme Court, against the P&H HC decision, wherein the Supreme Court has held vide order (dated September 18, 2026) that the above order passed by P&H HC shall remain stayed from its operation, on the condition that the assessment and reassessment proceedings shall not proceed further till the final disposal of the main matter. Further, the Supreme Court has fixed the final hearing on December 3, 2026.

Taxpayers with live reassessments, post April 1, 2021 notices issued by a JAO, or matters stayed pursuant to the Supreme Court's order dated April 10, 2026, are advised to seek specific advice on limitation, on amending writ petitions, and on the impact of subsequent developments.