IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HON'BLE THE ACTING CHIEF JUSTICE P. SAM KOSHY

AND

THE HON'BLE SRI JUSTICE NARSING RAO NANDIKONDA

WRIT PETITION No.12959 of 2021
(CNR No. HBHC010211632021)

Reserved on: 15.04.2026 **Pronounced on : 05.11.2026**
Uploaded on: 11.11.2026

Between:

Telangana State Industrial Infrastructure Corporation Limited

..Petitioner

AND

National eAssessment Centre Delhi and another

..Respondents

ORDER: *(per the Hon'ble Sri Justice Narsing Rao Nandikonda)*

Heard Sri Y Rantnakar, learned counsel appearing for the petitioner, and Smt. J. Sunitha, learned Senior Standing Counsel appearing for the respondents. Perused the record.

2. The present writ petition is filed by the petitioner, Telangana State Industrial Infrastructure Corporation Limited, challenging the assessment order dated 16.04.2021 passed by the National

e-Assessment Centre, Delhi, for the Assessment Year 2018-19, determining the total income of the petitioner at Rs.2,526,70,78,495/- and the consequential tax liability, on the ground that the same was passed in violation of the mandatory procedure prescribed under Section 144B of the Income Tax Act, 1961 (for short, 'the Act'), and in violation of the principles of natural justice.

3. Learned counsel appearing for the petitioner submits that the petitioner is a fully State owned Corporation, established with the object of promoting industrialization in the State of Telangana by providing infrastructure facilities for the establishment of industries. The petitioner filed its return of income for the Assessment Year 2018-19 on 31.10.2018, declaring an income of Rs.70,35,93,738/-, which was subsequently revised on 26.02.2021, declaring an income of Rs.65,63,61,635/-.

4. Learned counsel submits that the audit of the accounts of the petitioner Corporation could not be completed on account of issues arising out of the bifurcation of the erstwhile Andhra Pradesh Industrial Infrastructure Corporation into two separate Corporations consequent upon the bifurcation of the State of Andhra Pradesh. It is submitted that the said bifurcation-related issues continued to remain

unresolved on account of conflicting stands taken by the Governments of the two States.

5. Learned counsel further submits that, though the petitioner had furnished the information and explanations sought by the respondents from time to time in response to the notices issued under Section 142(1) of the Act, the respondents proceeded to pass the impugned assessment order without following the mandatory procedure contemplated under Section 144B of the Act.

6. It is specifically contended that the notices issued under Section 142(1) of the Act were only for calling upon the petitioner to furnish information and explanations and could not, by any stretch of imagination, be treated as a proper show-cause notice proposing variations in the returned income. The figures and particulars referred to in the said notices were also different from the figures ultimately adopted in the impugned assessment order.

7. Learned counsel submits that Section 144B of the Act contemplates a specific procedure to be followed by the National Faceless Assessment Centre, the Assessment Unit and the Review Unit. The Assessment Unit is required to prepare a draft assessment order, which may thereafter be subjected to review in accordance with

the procedure prescribed under the said provision. In the event of any proposed variation prejudicial to the interests of the assessee, the assessee is required to be provided an opportunity to show cause against such variation and furnish its objections before the assessment is finalised.

8. It is further contended that no draft assessment order proposing the additions ultimately made in the impugned assessment order was ever served upon the petitioner. The show-cause notice relied upon by the respondents does not refer to any draft assessment order or clearly indicate the proposed variations. Merely pointing out certain discrepancies in the balance sheet and profit and loss account cannot be treated as compliance with the mandatory requirements of Section 144B of the Act.

9. Learned counsel further submits that the draft assessment order is not a mere internal formality between the Assessment Unit, Review Unit and the National Faceless Assessment Centre, but constitutes an important procedural safeguard intended to enable the assessee to effectively respond to the proposed variations before the final assessment is made.

10. It is also contended that the petitioner had duly responded to the notices issued by the respondents and furnished the information called for. Therefore, the respondents could not have proceeded on the assumption that the petitioner had failed to comply with the statutory notices or that the assessment could be completed in the manner adopted by them.

11. Learned counsel further submits that the petitioner had earlier approached this Court and obtained an interim order dated 09.06.2021, wherein the violation of the procedure contemplated under Section 144B(15)(b) and Section 144B(21)(b) of the Act was specifically noticed. It is contended that the impugned assessment order, having been passed without following the mandatory statutory procedure and without affording an effective opportunity to the petitioner, is liable to be set aside.

12. Learned counsel places reliance upon the judgments of various High Courts dealing with the mandatory nature of the procedure prescribed under Section 144B of the Act, including the judgment of the Delhi High Court in *Interglobe Enterprises Private Limited v. National Faceless Assessment Centre, Delhi*, W.P.(C) No.5249 of 2021, dated 22.07.2021, and submits that the impugned assessment

order is liable to be set aside and the matter be remitted to the Assessing Authority for fresh consideration after following the procedure prescribed under law.

13. Per contra, learned counsel appearing for the respondents opposes the writ petition and submits that the same is not maintainable, in view of the availability of an effective alternative statutory remedy of appeal under the provisions of the Act.

14. Learned counsel for the respondents further submits that the petitioner was issued notices under Section 142(1) and other relevant provisions of the Act from time to time and sufficient opportunities were provided to furnish the necessary information and explanations. It is contended that the petitioner had participated in the assessment proceedings and had also submitted its responses to the notices issued by the respondents.

15. It is further contended that the requirement of issuing a draft assessment order is applicable only in the case of eligible assessees falling within the ambit of Section 144C of the Act and that the petitioner does not fall within the category of eligible assessees. According to the respondents, the preparation of a draft assessment order is essentially an internal process between the Assessment Unit

and the National Faceless Assessment Centre and there is no requirement to separately serve such draft assessment order upon an assessee in every case.

16. Learned counsel for the respondents further submits that the provisions contained in Section 144B(12) to (15) of the Act deal with the internal procedure and workflow between the Assessment Unit, Review Unit and the National Faceless Assessment Centre and that the same cannot be construed as requiring the issuance of a separate draft assessment order in every case.

17. It is also contended that, in terms of Section 144B(16)(b) of the Act, the respondents had issued notices pointing out the variations and discrepancies noticed in the financial statements of the petitioner and had called upon the petitioner to explain the same. Therefore, the said notices constitute sufficient compliance with the requirement of providing an opportunity to the petitioner before finalising the assessment.

18. Learned counsel further submits that the petitioner was afforded sufficient opportunity to respond to the discrepancies highlighted in the notices and that the assessment was finalised only after considering the material available on record and after following

the internal procedure prescribed under the Act. The mere absence of an express reference to a draft assessment order in the notices would not, according to the respondents, invalidate the assessment proceedings.

19. It is further submitted that, in the event of the petitioner failing to furnish the necessary information or explanations in response to the statutory notices, the Assessing Authority is entitled to proceed in accordance with the provisions of the Act. Therefore, there is neither any violation of the principles of natural justice nor any illegality warranting interference by this Court under Article 226 of the Constitution of India.

20. Having considered the rival submissions and upon perusal of the material available on record, the issue that arises for consideration is whether the impugned assessment order has been passed by following the mandatory procedure prescribed under Section 144B of the Act and whether the petitioner was afforded an effective opportunity to respond to the proposed variations before finalisation of the assessment.

21. At the outset, it is to be noticed that the assessment in the present case was undertaken by the National Faceless Assessment

Centre. Once the assessment is undertaken under the faceless assessment regime, the Assessing Authority is required to strictly adhere to the procedure prescribed under Section 144B of the Act and cannot resort to the procedure followed under the earlier assessment regime.

22. Section 144B of the Act prescribes the procedure for conducting faceless assessment, including the preparation and review of the draft assessment order and the grant of an opportunity to the assessee to respond to the proposed variations before the assessment is finalised.

23. For the sake of convenience and better appreciation of the issue involved in the present writ petition, Section 144B of the Income Tax Act, 1961, insofar as clauses (xiv), (xvi) and the relevant part of clause (xvii) are concerned, are extracted hereunder:

> **(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;

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

(xvii) 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.

24. A perusal of the aforesaid provisions makes it clear that the statutory scheme contemplates preparation of a draft assessment order

by the Assessment Unit after taking into consideration all the relevant material available on record. The draft assessment order is thereafter required to be transmitted to the National Faceless Assessment Centre, which is required to examine the same in accordance with the risk management strategy specified by the Board. Depending upon the nature of the proposed assessment, the National Faceless Assessment Centre is required to follow the course of action contemplated under clause (xvii) of Section 144B of the Act.

25. More particularly, where any variation prejudicial to the interests of the assessee is proposed, clause (xvii)(b) mandates that an opportunity shall be provided to the assessee by serving a notice calling upon him to show cause as to why the proposed variation should not be made. Thus, the opportunity contemplated under the said provision is not an empty formality, but a substantive procedural safeguard intended to enable the assessee to effectively explain its case before the assessment is finalised.

26. The contention of the respondents that the petitioner is not an eligible assessee within the meaning of Section 144C of the Act and, therefore, there is no requirement to furnish a draft assessment order, cannot by itself dispense with the procedural safeguards specifically

contemplated under Section 144B of the Act. The requirement of following the faceless assessment procedure has to be examined independently in accordance with the provisions applicable to the assessment in question.

27. It is also relevant to note that the notices issued under Section 142(1) of the Act for furnishing information and explanations cannot automatically be equated with a show-cause notice proposing specific variations in the returned income. The purpose of calling for information during the course of assessment proceedings is distinct from the requirement of providing an opportunity to the assessee to explain why the proposed variations should not be incorporated in the final assessment order.

28. In the present case, the specific contention of the petitioner is that no proper draft assessment order incorporating the proposed variations was furnished and no effective opportunity was given to the petitioner to submit its objections before the final assessment order dated 16.04.2021 was passed. The petitioner has also contended that the figures and discrepancies referred to in the earlier notices were different from the figures ultimately adopted in the impugned assessment order.

29. The aforesaid contentions have to be considered in the light of the statutory mandate contained in Section 144B of the Act. The procedure prescribed therein is not an empty formality, but is intended to ensure transparency, fairness and an effective opportunity to the assessee to explain its case before an assessment is finalised.

30. In this regard, it would be appropriate to refer to the judgment of the Delhi High Court in *Interglobe Enterprises Private Limited v. National Faceless Assessment Centre, Delhi*, W.P.(C) No.5249 of 2021, dated 22.07.2021, wherein, while considering an assessment order passed under the faceless assessment regime, the Delhi High Court held that once an assessment is undertaken by the National Faceless Assessment Centre, the procedure prescribed under Section 144B of the Act is required to be followed and the same cannot be substituted by the procedure prescribed under the earlier regime.

31. The Delhi High Court, while considering the provisions of Section 144B(7) and Section 144B(9) of the Act, held that the assessee is required to be issued a prior show-cause notice and draft assessment order wherever variations are proposed, and an opportunity of personal hearing is also required to be afforded in accordance with the statutory provisions, if requested by the assessee.

The Court further held that an assessment made in violation of the procedure prescribed under Section 144B of the Act would be non est in the circumstances contemplated under the said provision.

32. The Delhi High Court also rejected the objection regarding the availability of an alternative statutory remedy, holding that the existence of an alternative remedy would not operate as a bar to the maintainability of a writ petition where the assessment proceedings have been conducted in violation of the principles of natural justice.

33. Applying the aforesaid principles to the facts of the present case, this Court is of the view that the petitioner is entitled to an effective opportunity to respond to the proposed variations in accordance with the procedure prescribed under Section 144B of the Act. The issuance of notices calling for information under Section 142(1) of the Act, by itself, cannot be treated as a substitute for the opportunity contemplated under the faceless assessment procedure.

34. In view of the aforesaid discussion and having regard to the ratio laid down by the Delhi High Court in *Interglobe Enterprises Private Limited* (supra), this Court is of the considered view that the impugned assessment order dated 16.04.2021 cannot be sustained and is liable to be set aside, with liberty to the respondents to undertake

the assessment afresh by following the procedure prescribed under Section 144B of the Act.

35. Accordingly, the impugned assessment order dated 16.04.2021 passed by the National e-Assessment Centre, Delhi, for the Assessment Year 2018-19, together with the consequential demand, is hereby set aside. The matter is remitted to the competent Assessing Authority for fresh consideration. The respondents shall issue the necessary draft assessment order and show-cause notice, wherever required under the provisions of Section 144B of the Act, and afford an effective opportunity to the petitioner to submit its objections. If the petitioner requests for a personal hearing, the same shall be considered and afforded in accordance with the provisions of the Act. Thereafter, the respondents shall pass a reasoned assessment order in accordance with law.

36. It is made clear that this Court has not expressed any opinion on the merits of the additions or variations made in the assessment order and all the contentions of the parties on the merits of the assessment are left open to be considered by the competent Assessing Authority in accordance with law.

37. With the above directions, the Writ Petition is disposed of. There shall be no order as to costs.

Consequently, pending miscellaneous applications, if any, shall stand closed.

P. SAM KOSHY, ACJ

NARSING RAO NANDIKONDA, J

Date: 05.11.2026
AQS