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RSM India Newsflash

**Punjab & Haryana High Court strikes down
retrospective Section 147A of Income-Tax Act 1961**

Supreme Court stays operation of the ruling pending
final disposal

September 2026



Key takeaways for taxpayers

The Punjab & Haryana High Court in the case of *Jyoti Sareen vs UOI & Others* vide its judgement dated 10 September 2026, struck down retrospective Section 147A and separately invalidated the Section 148 notices before it for failure to follow the prescribed randomised automated allocation and faceless mechanism

1

Section 147A struck down as
Unconstitutional

2

Section 148 notices requires
Randomised Automated Allocation
and Faceless manner

3

Jurisdictional Assessing Officer
(JAO) - issued notices u/s 148 in
the batch petitions were set aside

What the Court held?

- Retrospective validating legislation must remove the basis/defect identified by the courts
- Section 151A & the 29 March 2022 Scheme (Refer Appendix) remained unamended; Randomised Automated Allocation was not addressed
- The Court also noted the Section 147A did not refer to Section 130 / 28 March 2022 Scheme and rejected revenue's contention of concurrent JAO–FAO jurisdiction; rejected reliance on Section 120 notifications where inconsistent with Section 151A

How the controversy arose?

The dispute concerns who could validly issue a notice u/s 148 after the Faceless Reassessment Framework was introduced

29 March 2022

Notification No. 18/2022 notified the e-Assessment of Income Escaping Assessment Scheme, 2022 (refer **Appendix**).

2023-2025

Several High Courts held that Section 148 notices must follow Randomised Automated Allocation under the Faceless scheme; Some High Courts differed

Finance Act, 2026

Section 147A inserted retrospectively from 1 April 2021 to clarify that AO for Sections 148/148A excludes NaFAC or assessment units

10 September 2026

Punjab & Haryana HC held Section 147A unconstitutional and quashed JAO-issued Section 148 notices in the batch petitions.

Core issues:

- i. Whether retrospective applicability of Section 147A was constitutionally valid?; and
- ii. Independently, whether the JAO-issued Section 148 notices complied with Section 151A and the Scheme dated 29 March 2022?

Relevant Provisions and Faceless Scheme

The Court examined Section 151A, the Scheme dated 29 March 2022, Section 147A and the wider Faceless-Jurisdiction Framework

Section 151A

Enables a scheme for assessment/ reassessment, issuance of Section 148 notices, enquiries / show-cause under Section 148A and sanction under Section 151

Notification No. 18/2022

Clause 3 covers: (a) assessment / reassessment / recomputation under Section 147, and (b) issuance of notice under Section 148 through Randomised Automated Allocation and in a faceless manner

Section 147A

Inserted retrospectively to state that AO for Sections 148 and 148A means an officer other than NaFAC or any assessment unit under Section 144B(3)

Court's lens

Did Section 147A remove the basis of earlier judgments, or merely override them by declaration?

P&H High Court held: the basis remained unaddressed because Section 151A and the 29 March 2022 scheme were not amended

Why Section 147A failed the validation test?

The High Court accepted retrospective law-making in principle, but held that Section 147A did not address the legal basis on which the earlier decisions had proceeded.

Validation law test	A validating law must remove the defect / basis of the earlier judgment, not merely declare that a court decision will not apply
Unamended scheme	Section 151A and the 29 March 2022 scheme continued under the statute without amendment
Automated allocation	Section 147A did not address randomised automated allocation, which had formed a core basis of earlier rulings
31 March 2022 limit	Section 151A(2): No direction modifying / excluding provisions for the Scheme could be issued after 31 March 2022; No notification excluding Section 148 had been issued by then
Non-obstante clause	Section 147A's non-obstante clause did not refer to Section 130 or the Scheme dated 28 March 2022

Result: Section 147A was held unconstitutional as it sought to override earlier judicial decisions without addressing the legal basis of those decisions.

What was decided?

The Punjab & Haryana High Court reached two distinct conclusions: Section 147A was unconstitutional, and the notices u/s 148 independently failed the prescribed Section 151A / Scheme mechanism. The writ petitions were allowed on the terms set out below.

Section 147A

Declared unconstitutional and directed to be struck down

JAO-issued notices

Set aside because the prescribed faceless / automated mechanism was not followed

Section 148 notices

Required to be issued through Randomised Automated Allocation and in a faceless manner u/s 151A read with the Scheme dated 29 March 2022

Concurrent jurisdiction of JAO-FAO

Revenue's reliance on Section 120 notifications was rejected where inconsistent with Section 151A and the scheme

Important: The issue continues to evolve in various other High Courts as well. [The Supreme Court has stayed the P&H High Court ruling, subject to the condition that assessment proceedings shall not proceed further until the final disposal of the matter.](#)

Recent Update – Supreme Court - Interim stay of the P&H HC Ruling

Interim Order dated 18 September 2026 - The Supreme Court has stayed the P&H High Court ruling, subject to the condition that assessment/ reassessment proceedings shall not proceed further until the final disposal of the matter; final hearing to be held on 3 December 2026.

Question of Law before the Supreme Court

1. Faceless regime – Sections 148 / 148A

Whether notices / proceedings under Sections 148 and 148A must mandatorily be undertaken by a Faceless Assessing Officer under the faceless reassessment framework?

2. Section 120 – Jurisdiction

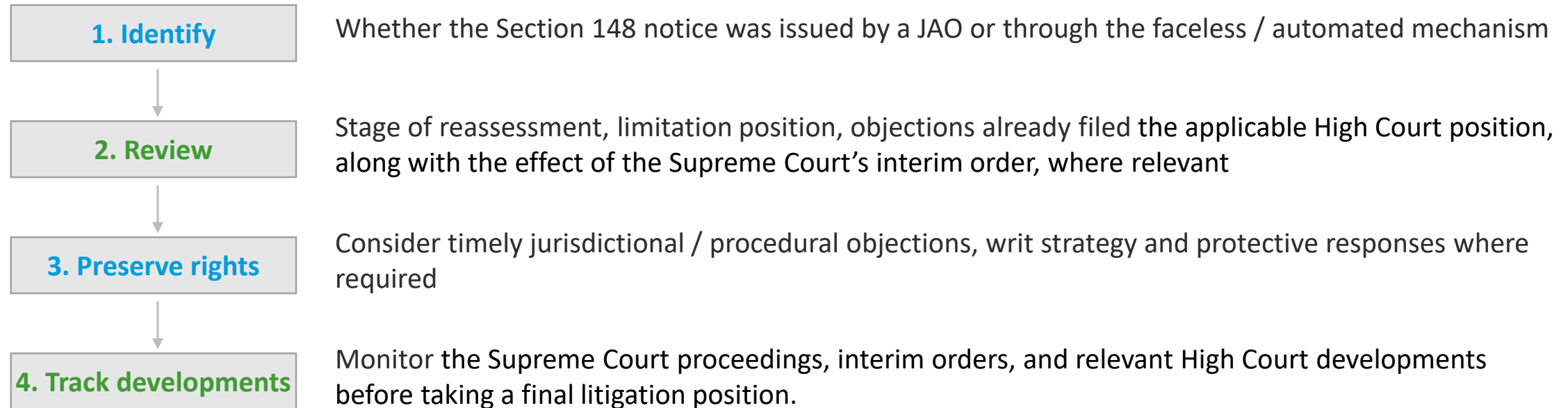
Whether the absence of a Section 120 notification conferring such jurisdiction on the Faceless Assessing Officer affects the authority / jurisdiction of the Jurisdictional Assessing Officer?

3. Section 147A – Validating effect

Whether Section 147A validly operates as a validating provision prescribing the Assessing Officer for Sections 148 and 148A, notwithstanding Section 151A, the 29 March 2022 Scheme and earlier judicial decisions?

What Taxpayers should consider?

A case-specific review is advisable, particularly where reassessment notices have been issued by Jurisdictional AOs (JAO)



Note:

- Pending or proposed reassessments may need a procedural and jurisdictional review.
- The position is not nationally settled, as the JAO–FAO controversy is presently pending consideration before the Supreme Court
- Case facts, limitation, forum and stage of proceedings remain important.

Comments

The ruling reinforces the importance of following the prescribed faceless reassessment procedure

- The judgment is a significant taxpayer-favourable development in the JAO–FAO reassessment controversy; stayed by the SC
- It emphasises that retrospective clarificatory legislation cannot merely override judicial findings without curing the statutory basis.
- Taxpayers with pending reassessment proceedings should review the manner of issuance of Section 148 notices and AO allocation.
- Considering that the JAO-FAO controversy is now pending before the Supreme Court and possible appellate proceedings, positions should be taken after a case specific and jurisdiction-specific review. It would be pertinent to:
 - ✓ Map all pending Section 148 / 148A proceedings and identify notices issued by JAOs.
 - ✓ Evaluate whether procedural objections should be raised or preserved in ongoing matters.
 - ✓ Closely track the Supreme Court proceedings and consequential High Court developments before finalising litigation strategy.
 - ✓ Where deadlines are live, evaluate the appropriate response in light of the Supreme Court's direction that assessment proceedings shall not proceed further till final disposal.

Appendix - Notification No. 18/2022 notified the e-Assessment of Income Escaping Assessment Scheme, 2022

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 29th March, 2022

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 of Income Escaping Assessment Scheme, 2022.

(2) It shall come into force with effect from the date 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 under section 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.

[Notification No. 18/2022/F. No. 370142/16/2022-TPL(Part1)]

SHEFALI SINGH, Under Secy.

Abbreviations

Abbr.	Full form
Act / IT Act	Income-tax Act, 1961
AO	Assessing Officer
AY	Assessment Year
CBDT	Central Board of Direct Taxes
CWP	Civil Writ Petition
FAO	Faceless Assessing Officer

Abbr.	Full form
HC	High Court
JAO	Jurisdictional Assessing Officer
NaFAC	National Faceless Assessment Centre
P&H HC	Punjab & Haryana High Court
SC	Supreme Court of India
u/s	Under section

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This presentation provides a brief overview of the Punjab & Haryana High Court's ruling in the case of Jyoti Sareen v. Union of India & Others concerning the JAO–FAO controversy in reassessment proceedings.. It may be noted that nothing contained in this Presentation should be regarded as our opinion and facts of each case will need to be analyzed to ascertain thereof and appropriate professional advice should be sought for applicability of legal provisions based on specific facts. We are not responsible for any liability arising from any statements or errors contained in this Presentation.

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