

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 11194 of 2025
With
CIVIL APPLICATION (FOR INTERIM RELIEF) NO. 1 of 2025
In
R/SPECIAL CIVIL APPLICATION NO. 11194 of 2025

FOR APPROVAL AND SIGNATURE:
HONOURABLE MR. JUSTICE A.S. SUPEHIA
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Approved for Reporting	Yes	No
	✓	

MILACRON INDIA PRIVATE LIMITED

Versus

THE ASSESSMENT UNIT, INCOME TAX DEPARTMENT & ORS.

Appearance:

MR DHINAL A SHAH(12077) for the Petitioner(s) No. 1

MR DEV PATEL for MR.VARUN K.PATEL(3802) for the Respondent(s) No. 1,2,4

NOTICE UNSERVED for the Respondent(s) No. 3

CORAM:HONOURABLE MR. JUSTICE A.S. SUPEHIA
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

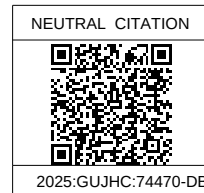
Date : 22/12/2025

ORAL JUDGMENT

(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. Heard learned advocate Mr.Dhinal Shah for the petitioner and learned Senior Standing Counsel Mr.Dev Patel for the respondents nos. 1, 2 and 4. The affidavit-in-reply dated 22.12.2025 is ordered to be taken on record.

2. **RULE** returnable forthwith. Learned Senior Standing Counsel Mr. Dev Patel waives service of notice of rule on behalf of the respective respondents. Having regard to the controversy in a narrow compass, with the consent of the learned advocates for the parties, the matter is taken up for hearing.



3. By way of this petition, the petitioner has prayed to quash and set aside the final Assessment Order dated 02.05.2025 passed under Section 143(3) read with Section 144C (3) and Section 144B of the Income Tax Act, 1961 (for short “the Act”) for the Assessment Year 2022-23 and further to direct the respondent no. 3 to hear the application and issue fresh directions under Section 144C(5) of the Act on the ground that the same is *non-est* having been passed in violation of the mandatory procedure prescribed under Section 144C(13) of the Act.

4. The facts in brief are that the petitioner duly filed its return of income for the Assessment Year 2022-23 on 29.11.2022 under Section 139(1) of the Act declaring total income of Rs.2,38,68,25,940/-. The case of the petitioner was selected for scrutiny assessment under the Computer Aided Scrutiny Selection (CASS) parameters, *inter alia* for the issues involving significant international transactions and transfer pricing risk parameters. It is the case of the petitioner that consequently, the matter was referred to the Transfer Pricing Officer (TPO) under Section 92CA (1) of the Act for determination of the arm’s length price (ALP).

4.1. The TPO vide its letter dated 16.01.2025 passed under Section 92CA (3) of the Act proposed an upward adjustment of Rs.12,68,130/- in respect of notional interest imputed on alleged delayed realization of sale invoices from Associated Enterprises (AEs) beyond normal credit period extended by the petitioner Company. Pursuant thereto, the draft Assessment Order under Section 144C(1) of the Act dated 24.03.2025 came to be passed by the respondent no. 1 incorporating the above proposed adjustment.

4.2. Being aggrieved by the proposed variation, the petitioner in compliance with the provisions of Section 144C(2) of the Act filed its objections in Form 35A of the Act before the respondent no. 3 - Dispute Resolution Panel (DRP) on 21.04.2025, which was filed within the prescribed period of limitation of 30 days. The same was acknowledged by



respondent No.3 - DRP on 21.04.2025 and respondent no. 2 - Jurisdictional Assessing Officer (JAO) on 22.04.2025. Despite the pendency of the said objections before respondent no. 3 - DRP, and without awaiting issuance of directions under Section 144C(5) of the Act from the respondent no. 3, respondent no. 1 - Faceless Assessing Officer (NFAC) passed a final Assessment Order dated 02.05.2025 under Section 143(3) read with Section 144C(3) and Section 144B of the Act. It is the case of the petitioner that along with the final Assessment Order, notice under Section 274 read with Section 270A of the Act was also issued for initiation of penalty proceedings.

4.3. It is further the case of the petitioner that on 13.05.2025, the petitioner made a detailed representation to the concerned Assessing Officer, highlighting that the final order had been erroneously passed while the objections before the DRP were still pending and as such requested for immediate withdrawal of the Assessment Order. Further, on 16.05.2025, the petitioner again addressed an e-mail to the Samadhan Faceless Assessment Cell highlighting the illegality in the final Assessment Order. Thereafter, the petitioner addressed a letter dated 22.05.2025 to respondent no. 1 requesting to provide an opportunity of hearing in the matter.

4.4. Simultaneously, on 22.05.2025, the petitioner submitted a detailed letter to the JAO reiterating that the final Assessment Order had been passed prematurely despite the pendency of the objections before respondent no. 3 - DRP and thereby rendering the order *void ab inito* and without jurisdiction. It is therefore, submitted that the no direction had been issued by respondent no. 3 DRP under Section 144C(5) of the Act at the time when final order was passed and thus, the said action prejudicially affected the statutory rights. It is thus the case of the petitioner that respondent no. 3 - DRP dismissed the objections vide order dated 25.06.2025, on the ground that respondent no. 1 Assessing Officer had already passed the final Assessment Order and therefore, respondent no. 2



lacks jurisdiction to adjudicate the appeal. Hence, the petitioner is constrained to file the present writ petition.

5. Learned advocate Mr.Dhinal Shah appearing for the petitioner has submitted that due to inadvertence the petitioner filed objections before the JAO on 22.04.2025 instead of filing it before the Faceless Assessing Officer as required under Section 144C(5) of the Act. It is submitted that during the pendency of the writ petition respondent no. 3 DRP passed an order dated 25.06.2025, dismissing the objections filed by the petitioner on 22.05.2025 on the ground that the Assessing Officer has already passed the Final Assessment Order and the DRP lacks jurisdiction. It is further submitted that the petitioner had duly filed its objections before the DRP on 21.04.2025 and the same was well within the prescribed period of limitation, the filing of which was duly acknowledged by the DRP and the JAO on 21.04.2025 and 22.04.2025 respectively. Hence, the statutory right of the petitioner to file its objections adjudicated by the DRP under Section 144C(2) cannot be denied. Thus, it is urged that the impugned order may be set aside and the matter may be remanded to the DRP and the petitioner may be granted an opportunity to filed its objections before the Faceless Assessing Officer as required under the provisions of Section 144C(2) of the Act.

6. *Per contra*, learned Senior Standing Counsel Mr.Dev Patel appearing for the respondents has submitted that as per the provisions of Section 144C of the Act, the petitioner has to file objections before the DRP within a period of 30 days and also before the Assessing Officer. However, since the petitioner committed mistake and filed its objections before the JAO instead of Faceless Assessing Officer as required under the National Faceless Assessment Centre, Delhi, the impugned order was passed by the DRP, which does not require any interference as once the order having been passed by the Faceless Assessing Officer, the provisions of Section 144C(2) of the Act gets satisfied.



7. We have heard the learned advocates appearing for the parties at length. The facts which are established from the pleadings are as under :-

7.1. The petitioner filed its return of income for the Assessment Year 2022-23 on 29.11.2022 under Section 139(1) of the Act declaring total income of Rs.2,38,25,940/-. The case of the petitioner was selected for scrutiny for issues involving significant international transactions and Transfer Pricing risk parameters and the matter was referred to the Transfer Pricing Officer (TPO) under Section 92CA(1) of the Act for determination of the arm's length price. It appears that the draft Assessment Order under Section 144C(1) of the Act was passed 24.03.2025 by the respondent no. 1 proposing adjustment of Rs.12,68,130/- and the petitioner having been aggrieved by the same filed its objections in Form 35A before the respondent no. 3 - Disputes Resolution Panel (DRP) on 21.04.2025 within the limitation period of 30 days as per the provisions of Section 144C(2) of the Act. At the same time, the petitioner also filed its objections on 22.04.2025 before respondent no.2 (JAO). Both the objections were acknowledged by the respondent authorities.

7.2. It is not in dispute and in fact admitted by the respective parties that the petitioner was supposed to file its objections before the Faceless Assessing Officer and had erroneously filed it before the JAO and thereafter the Faceless Assessing Officer proceeded to pass the Final Assessment Order on 02.05.2025 under Section 143(3) read with Section 144C(3) and Section 144B of the Act. Along with the Final Assessment Order, notice under Section 274 read with Section 270A of the Act was also issued for initiation of penalty proceedings. The petitioner thereafter filed various representations before the respondent authorities. However, the same was not acceded to and the Final Assessment Order was passed on 25.06.2025.

7.3. During the pendency of the writ petition, the respondent no. 3 DRP



also passed the order on 25.06.2025 by observing that since the Assessing Officer had already passed the Assessment Order dated 02.05.2025, the objections filed by the petitioner before it has become *non est* as the DRP lacks jurisdiction. At this stage, we may incorporate the provision of Section 144C of the Act :

"Section 144C : Reference to Dispute Resolution Panel.

(1) xxxx

(2) On receipt of the draft order, the eligible assessee shall, within thirty days of the receipt by him of the draft order,

(a) file his acceptance of the variations to the Assessing Officer;

or

(b) file his objections, if any, to such variation with, -

(i) the Dispute Resolution Panel ; and

(ii) the Assessing Officer."

7.4. In the instant case so far as the filing of objections by the petitioner before the DRP within a period of 30 days is concerned the same is not in dispute. However, the case of the respective parties hinges on the non-compliance of the provision of Section 144C(2) (b)(ii) of the Act i.e. before the Assessing Officer. It is not in dispute that due to *bona fide* error, the petitioner filed objections within prescribed period of limitation before the JAO instead of Faceless Assessing Officer and accordingly the Faceless Assessing Officer passed the Final Assessment Order. Pursuant to which the DRP also passed the impugned order as having become *functus offico* in adjudicating the dispute. The respondents has not denied the aforesaid aspect. This the petitioner has carved out a case for interference as it is not in dispute that the petitioner due to inadvertence instead of filing objections before the Faceless Assessing Officer filed the same before the JAO within limitation period of 30 days and the Faceless Assessing Officer proceeded to pass the Final Assessment Order. In our considered opinion, the JAO on acknowledging the objections filed by the petitioner on 21.04.2025 ought to have communicated to the petitioner to approach the Faceless Assessing Officer as the limitation period would be running



against the petitioner more particularly, when the Jurisdictional Assessing Officer did not have any jurisdiction to entertain such objections. Be that as it may, the assessment was further undertaken by the Faceless Assessing Officer and ultimately an order was passed which led to the consequential order passed by the DRP.

8. Under the circumstances, and in light of the aforesaid factual matrix, in the interest of justice, the following order is passed:

(i) The impugned orders dated 02.05.2025 and 25.06.2025 passed by the respondents are hereby quashed and set aside.

(ii) The matter is remanded to the DRP and the DRP shall adjudicate the objections afresh and pass necessary orders.

(iii) The petitioner shall file objections within a period of two weeks from the date of receipt of writ of this order and the period of limitation of 30 days would start from the date of filing such objections before the Faceless Assessing Officer.

(iv) We further clarify that in case the petitioner does not file the objections within the time specified by us, the order passed by the Faceless Assessing Officer shall stand revived.

9. In view of the above, the present writ petition stands allowed. Rule is made absolute. No order as to costs.

Consequently, the connected Civil Application also stands disposed of.

(A. S. SUPEHIA, J)

(PRANAV TRIVEDI, J)

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