



आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "B" :: PUNE

BEFORE DR.DIPAK P. RIPOTE, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.315/PUN/2025

निर्धारण वर्ष / Assessment Year: 2017-18

Yezdi Naushir Bharucha, Bharucha House, New Laxmi Talkies Road, Amalner – 425401. Maharashtra.	V s.	The Income Tax Officer, Ward-1(3), Jalgaon.
PAN: ABEPB6770B		
Appellant/ Assessee		Respondent / Revenue

Assessee by	Shri Nikhil S Pathak - AR
Revenue by	Shri
Date of hearing	06/05/2025
Date of pronouncement	07/05/2025

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This is an appeal filed by the Assessee against the order of Id.Commissioner of Income Tax(Appeal)[NFAC] passed under section 250 of the Act, dated 11.12.2024 for the A.Y.2017-18. The Assessee has raised the following grounds of appeal :

“1] The learned CIT(A) erred in holding that the reopening u/s 148 was valid in law without appreciating that the notice u/s 148 was issued was invalid in law and accordingly, the reassessment order passed u/s 147 should have been declared null and void.



2] *The learned CIT(A) failed to appreciate that the jurisdictional Assessing Officer had no jurisdiction to issue notice u/s 148 and therefore, the reassessment order passed u/s 147 was null and void.*

3] *The appellant craves leave to add, alter, amend or delete any of the above grounds of appeal.”*

1.1 Assessee has raised an Additional Ground of appeal as under :

“1] The assessee submits that the notice issued u/s.148 and u/s.148A(d) is invalid in law since the approval as envisaged u/s.151 has not been obtained from the Pr.Chief Commissioner of Income Tax and therefore, the reassessment order passed u/s.147 be declared null and void.”

Submission of Id.AR :

2. Ld.AR for the Assessee filed an elaborate paper book containing 123 pages. Ld.AR also filed copies of the case laws relied. Ld.AR took us through the notice u/s.148 of the Act, dated 29.07.2022 and order u/s.148A(d) of the Act, dated 29.07.2022. Ld.AR submitted that both these have been approved by Pr.CIT vide approval order no.Pr.CIT-1, Nashik vide reference no.Nsk/Pr.CIT-1/Appr. u/s 148/Range-1, Jal./2022-23/1510 dated 22.07.2022. Ld.AR submitted that more than three years have lapsed when the notice was issued for A.Y.2017-18. Hence, as per section 151 of the Act, approval of Id.Principal Chief Commissioner of Income Tax[Pr.CCIT] is required. Therefore, the notice under section 148 and order under section 148A(d) of the Act, is bad in law. Ld.AR relied on the decision of Hon’ble Jurisdictional High Court.



Submission of ld.DR :

3. Ld.DR for the Revenue relied on the order of Assessing Officer and ld.CIT(A).

Findings & Analysis :

4. We have heard both the parties and perused the records. In this case, admittedly notice u/s.148 of the Act, for A.Y.2017-18 was issued by ITO, Ward-1(4), Jalgaon on 29.07.2022 after obtaining approval from Pr.CIT-1, Nashik vide reference no.Nsk/Pr.CIT-1/Aprr.u/s 148/Range-1, Jal./2022-23/1510 dated 22.07.2022. Similarly, order under section 148A(d) dated 29.07.2022 was approved by Principal Commissioner of Income Tax-1, Nashik.

4.1 The notice u/s.148 for A.Y.2017-18 was issued on 29.07.2022 with the approval of Pr.CIT-1, Nashik vide reference no.Nsk/Pr.CIT-1/Aprr.u/s 148/Range-1, Jal./2022-23/1510 dated 29/07/2022.

4.2 Thus, it is an admitted fact that notice u/s.148 and order u/s.148A(d) of the Act was passed with the approval of Pr.Commissioner of Income Tax.



4.3 Section 151 of the I.T.Act is reproduced here as under :

[Sanction for issue of notice.

151. Specified authority for the purposes of section 148 and section 148A shall be,—

(i) Principal Commissioner or Principal Director or Commissioner or Director, if three years or less than three years have elapsed from the end of the relevant assessment year;

(ii) Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General, if more than three years have elapsed from the end of the relevant assessment year.]

5. In this case, it is an admitted fact that more than three years have been lapsed from the end of the Assessment Year. Therefore, as per Section 151 of the Act, the Competent Authority to approve the notice u/s.148 and order u/s.148A(d) of the Act, is the Id.Principal Chief Commissioner of Income or Id.Chief Commissioner of Income Tax. However, in this case, notice has been approved by Id.Principal Commissioner of Income Tax.

5.1 The Hon'ble Jurisdictional High Court in the decision of Holiday Developers (P.) Ltd, Vs. ITO [2024] 159 taxmann.com 178 (Bombay) dated 29.01.2024 has held as under :

Quote "1. Petitioner is impugning a order under section 148A(d) and the notice, both dated 7th April 2022 passed under section 148 of the Income Tax Act, 1961 ("Act"). Of-course Petitioner has also impugned the notice dated 17th March 2022 issued under section 148A(b) of the Act. Various grounds have been raised but one of the primary grounds for challenging the notice under section 148A(d) and the notice under section 148 of the Act both dated 7th April 2022 is that order as well as



the notice both mention the authority that has granted approval, is the Principal Commissioner of Income Tax ("PCIT"), Mumbai 5 and the approval has been granted on 7th April 2022.

2. Mr. Gandhi is correct in saying that the Assessment Year ("AY") is 2018-19 and, therefore, since more than three years have expired from the end of the assessment year, Sanctioning Authority under section 151(ii) of the Act should be the Principal Chief Commissioner of Income Tax ("PCCIT") and not the PCIT. Mr. Gandhi says, as held in Siemens Financial Services (P.) Ltd. v. Dy. CIT [2023] 154 taxmann.com 159/457 ITR 647 (Bom.), the sanction is invalid and consequently, the order and the consequent notice under section 148A(d) and section 148, respectively, of the Act should be quashed and set aside.

3. In view of these facts and circumstances, we do not see any reason to just grant Rule and keep the matter pending.

4. As held in Siemens (Supra), the order passed under section 148A(d) and notice issued under section 148 of the Act both are quashed and set aside." Unquote.

5.2 Similarly, the Hon'ble Bombay High Court in the case of Pradeep Himatlal Shah Vs. ITO [2025] 170 taxmann.com 471(Bombay) has held as under :

"4. The impugned order and the impugned notice both dated 7th April 2022 state that the Authority that has accorded the sanction is the PCIT, Thane-1. The matter pertains to Assessment Year ("AY") 2018-2019 and since the impugned order as well as the notice are issued on 7th April 2022, both have been issued beyond a period of three years. Therefore, the sanctioning authority has to be the PCCIT as provided under Section 151(ii) of the Act. The proviso to Section 151 of the Act has been inserted only with effect from 1st April 2023 and, therefore, shall not be applicable to the matter at hand.

5. In the circumstances, as held by this Court in Siemens Financial Services (P) Ltd v. Dy. CIT [2023] 154 taxmann.com 159/457 ITR 647 (Bombay), the sanction is invalid and consequently, the impugned order and impugned notice both dated 7th April 2022 under Sections 148A(d) and 148 of the Act are hereby quashed and set aside."(emphasis supplied)



5.3 The Hon'ble Jurisdictional High Court in the case of Agnello Oswin Dias Vs. ACIT [2024] 161 taxmann.com 16 (Bombay) has held as under :

“4. The impugned order and the impugned notice both dated 22nd April 2022 state that the Authority that has accorded the sanction is the PCIT, Mumbai-5. The matter pertains to Assessment Year ("AY") 2018-2019 and since the impugned order as well as the notice are issued on 22nd April 2022, both have been issued beyond a period of three years. Therefore, the sanctioning authority has to be the PCCIT as provided under Section 151(ii) of the Act. The proviso to Section 151 of the Act has been inserted only with effect from 1st April 2023 and, therefore, shall not be applicable to the matter at hand.

5. In the circumstances, as held by this Court in Siemens Financial Services (P.) Ltd. v. Dy. CIT [2023] 154 taxmann.com 159/457 ITR 647 (Bom.), the sanction is invalid and consequently, the impugned order and impugned notice both dated 22nd April 2022 under sections 148A(d) and 148 of the Act are hereby quashed and set aside.”

5.4 Thus, Hon'ble Bombay High Court explained the Amendment made in 2023 is applicable w.e.f. 01.04.2023.

5.5 ITAT Pune in the case of Hareshkumar Dungarmal Jain vs. DCIT in ITA No.1933/PUN/2024, quashed the Notice u/s.148 of the Act, dated 13.04.2022 for A.Y.2018-19.

6. In the above referred decision of Hon'ble Bombay High Court, Pradeep Himmatlal Shah vs. ITO(supra) the assessment year



involved is A.Y.2018-19 and order under section 148A(d) of the Act, was passed on 07.04.2022. In the case of the assessee, Yezdi Naushir Bharucha, the assessment year is A.Y.2017-18 and order under section 148A(d) of the Act, is dated 29.07.2022. Therefore, the facts are absolutely identical. Hence, respectfully following the decision of Hon'ble Bombay High Court(supra) and ITAT Pune(supra), the order under Section 148A(d) of the Act, and notice under section 148 are quashed. Accordingly, the Additional legal ground raised by the assessee is allowed. Since we have decided the Additional Legal Ground in favour of the assessee, the other grounds becomes academic in nature. We have already mentioned that both parties only argued on the legal ground, hence, the remaining grounds are dismissed as unadjudicated. Accordingly, grounds of appeal raised by the assessee are partly allowed.

7. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open Court on 07 May, 2025.

Sd/-
(VINAY BHAMORE)
JUDICIAL MEMBER

Sd/-
(DIPAK P.RIPOTE)
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 07 May, 2025/ SGR



आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्डफ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// TRUE COPY //

Senior Private Secretary
आयकर अपीलीय अधिकरण, पुणे/ITAT, Pune.