

| आयकर अपीलीय अधिकरण न्यायपीठ, मुंबई |  
IN THE INCOME TAX APPELLATE TRIBUNAL  
"A" BENCH, MUMBAI

BEFORE SHRI NARENDRA KUMAR BILLAIYA, HON'BLE ACCOUNTANT MEMBER  
&  
SHRI SANDEEP SINGH KARHAIL, HON'BLE JUDICIAL MEMBER

**I.T.A. No. 1419/Mum/2025**  
**Assessment Year: 2012-13**

Anil Kumar Manrai B 904 ARIISTO Sapphire 2 <sup>nd</sup> Hasnabad Lane Santacruz (West) Mumbai - 400054 [PAN: AALPM0153D]	Vs	ACIT, Circle - 22(1), Mumbai
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<b>अपीलार्थी/ (Appellant)</b>		<b>प्रत्यर्थी/ (Respondent)</b>
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Assessee by :	Shri Nikhil Porwal, A/Rs
Revenue by :	Shri Aditya M. Rai, Sr. D/R

सुनवाई की तारीख/Date of Hearing : 03/07/2025  
घोषणा की तारीख /Date of Pronouncement: 07/07/2025

**आदेश/O R D E R**

**PER NARENDRA KUMAR BILLAIYA, AM:**

This appeal by the assessee is preferred against the order dated 27/01/2025 by NFAC, Delhi [hereinafter "the ld. CIT(A)"] pertaining to AY 2012-13.

2. The substantial grievance raised by the assessee is as under:-

1. *The Learned Appellant Officer erred in ignoring the ground of appeal to treat the order passed u/s 144 r.w.s. 147 as void ab initio for non-issuance of notice u/s 148 within the time limit prescribed u/s 149 and also non issuance of valid notice u/s 143(2) and 142(1) as per Rule 127.*
2. *The Learned Appellant Officer erred in levying interest u/s 234B & 234C.*
3. *The Appellant craves leave to alter, amend or add to any of the above grounds."*

3. Briefly stated, the facts of the case are that the assessee did not file his return of income and the assessment was reopened by issuing notice u/s 148 of the Act dated 30/03/2019 after taking approval from Competent Authority.

4. In response to the said notice, the assessee filed return of income on 09/04/2019 declaring the income at Rs. 3,22,340/-. Statutory notices were issued and served upon the assessee and the assessment order was framed on 21/12/2019 u/s 144 r.w.s. 147 of the Act assessing total income at Rs. 2,41,73,650/-. The assessee challenged the assessment before the Id. CIT(A) specifically questioning the validity of the notice u/s 148 of the Act.

5. Taking a leaf out of the amendment by the Finance (No. 2) Act, 2024 *w.e.f.* 01/10/2024, the Id. CIT(A) was convinced that the assessment made by the AO u/s 144 r.w.s. 147 of the Act being *ex-parte* assessment made without affording adequate opportunity to the assessee and accordingly, it found it to be a fit case to be set aside and referred back to the AO for making a fresh assessment.

6. We are of the considered view that once the assessment order has been set aside back to the file of the AO for fresh assessment, then any grievance relating to the notice issued u/s 148 of the Act should be taken before the AO himself as he is the primary officer. Therefore, we do not find any reason to interfere with the findings of the Id. CIT(A).

7. In the result, appeal of the assessee is dismissed.

**Order pronounced in the Court on 7<sup>th</sup> July, 2025 at Mumbai.**

*Sd/-*  
(SANDEEP SINGH KARHAIL)  
JUDICIAL MEMBER

*Sd/-*  
(NARENDRA KUMAR BILLAIYA)  
ACCOUNTANT MEMBER

Mumbai, Dated 07/07/2025

*\*SC S.P.*

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,  
TRUE COPY

Assistant Registrar  
आयकर अपीलीय अधिकरण  
ITAT, Mumbai