

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"SMC" BENCH, MUMBAI**  
**BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER**  
**ITA No. 3420/MUM/2025 (AY: 2016-17)**  
*(Physical hearing)*

Pramod Shivram Sawant Room No. 8, 129/139, C Wing, Chandra Terrace, Khadilkar Road, Girgaon, Mumbai-400004. [PAN No. AWPPS4139P]	Vs	Assessment Unit, Income Tax Department, Mumbai
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Ajinkya Vaishampayan, CA
Revenue by	Sh. Surendra Mohan, Sr. DR
Date of Institution	15.05.2025
Date of hearing	24.07.2025
Date of pronouncement	24.07.2025

**Order under section 254(1) of Income Tax Act**

**PER PAWAN SINGH, JUDICIAL MEMBER:**

1. This appeal by assessee is directed against the order of Ld. CIT(A)/NFAC dated 24.03.2025 for assessment year (AY) 2016-17. The assessee has raised following grounds of appeal:

*"1. Hon'ble CIT(A)-NFAC failed to adjudicate Ground No. 2 raised in the 1 appeal by the appellant and hence, the order setting aside the assessment by CIT(A)-NFAC de-nova is bad in law as the assessment order is passed after due hearing and video conference.*

*2) The learned CIT (A) NFAC erred in setting aside as the order passed by the learned AO which was not Ex-Parte order and CIT (A) - NFAC ought to have decided the appeal on facts and merits and as per law.*

*3) The assessee never raised issue of lack of adequate opportunity and hence the CIT(A)-NFAC erred in setting aside the assessment and the CIT(A)-NFAC ought to have considered and adjudicate on the ground of reasonability of estimation.*

*4) The CIT(A)-NFAC failed to appreciate that the income assessed viz-a-viz addition made don't survive as no addition has been made on account of the*

*reasons for which the notice u/s 148 came to be issued and hence, addition made to the income returned need to be deleted.*

*5) The de-nova assessment proceedings may be directed to stay in view of the earlier grounds taken as above.*

*6) The assessee craves leave to add, after amend or omit any of the grounds of appeal.”*

2. Rival submissions of both the parties have heard and record perused. The learned Authorised Representative (Id. AR) of the assessee submits that case of assessee was reopened by issuing notice under section 148 dated 26.06.2021, under unamended provisions of Act. The case of assessee was reopened for A.Y. 2016-17. The limitation period coupled with provision of Taxation and Other Laws [Relaxation and Amendment in Certain Provisions] Act (TOLA) is added, the time was expiring on 30.06.2021. After the decision of Hon'ble Supreme Court in case of Union of India Vs Rajeev Bansal (2024) 167 taxmann.com 70 SC, there was a surviving period of 4 days only. As per the direction of Hon'ble Apex Court, notice under section 148A(b) was issued on 26.05.2022. The assessee filed his response on 18.06.2022. The last date for issuing notice under section 148 as per amended provision was upto 12.06.2022. However, the notice under section 148 was issued on 28.07.2022. Thus, such notice under section 148 is time barred. Further, the case of assessee was reopened beyond three years from the end of relevant assessment year, therefore, as per amended provision, the sanction of Principal Chief Commissioner of Income Tax (PCCIT) was required, however, the assessing officer obtained the sanction from Pr. CIT. Thus, approval / sanction is invalid once notice under section 148 is issued without proper

sanction, therefore, all actions initiated thereon has become void ab initio. To support his submission, the Id. AR relied upon the decision of Mumbai Tribunal in ACIT vs Manish Financial and decision of Hon'ble Apex Court in Union of India vs Rajeev Bansal (2024) 167 taxmann.com 70.

3. On the other hand, learned Senior Departmental Representative (Id. Sr. DR) for the revenue supported the order of Id. CIT(A). The Id. Sr. DR for the revenue submits that assessment was completed under section 144 and the Id. CIT(A) has restored the matter back to the file of assessing officer for passing the assessment order afresh, therefore, the assessee should not have left any grievances.
4. In the rejoinder submission, the Id. AR of the assessee submits that once initiation of reopening is bad in law, therefore, all subsequent action has become *void ab initio*.
5. I have considered the rival submissions of both the parties and have gone through the orders of lower authorities carefully. On careful perusal of notice under section 144A(d) dated 27.07.2012, I find that assessing officer obtained approval of Pr. CIT vide his approval dated 26.07.2022. Admittedly, the case of assessee was reopened for A.Y. 2016-17, which was beyond three years from the end of relevant assessment year, therefore, assessing officer was required to obtain approval from Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General. As the sanction was obtained from Pr. CIT, therefore, notice under section 148 is invalid consequently; assessment order passed in consequence of such invalid notice has become *void ab initio*. Thus, the assessee succeeded on

primary submission of Id. AR of the assessee. Considering the fact that assessee is succeeded on primary submission of assessee, therefore, adjudication on other submission or on the merit of the case has become academic. In the result, grounds of appeal of assessee are allowed.

6. In the result, the appeal of the assessee is allowed.

Order was pronounced in the open Court on 24/07/2025.

**Sd/-**

**PAWAN SINGH  
JUDICIAL MEMBER**

MUMBAI, Dated 24/07/2025  
*Biswajit*

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

By Order

Assistant Registrar  
ITAT, Mumbai