

**IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" BENCH, MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER
ITA No. 3443/MUM/2025 (AY: 2017-18)**

(Physical hearing)

Sunita Ramesh Dhanani 9 AlankarChs, SenapatiBapat Marg Mahim (West), Mumbai-400016. [PAN No. AJAPD9146R]	Vs	ITO – 22(3)(6), Mumbai Piramal Chamber, Lal Baug, Parel, Mumbai – 400012.
Appellant / Assessee		Respondent / Revenue

Assessee by	Shri Shashi Bekal, Advocate
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 17.03.2025 for assessment year (AY) 2017-18. The assessee has raised following grounds of appeal:

"1. Reassessment is bad in law

1.1 That on the facts and circumstances of the case and in law the Ld. National Faceless Appeal Centre (NFAC) has erred in upholding the Reassessment proceedings for AY 2017-18 on incorrect sanction.

1.2. That on the facts and circumstances of the case and in law the Ld. NFAC has erred in upholding reassessment proceedings contrary to the decision of the Hon'ble Supreme Court in the case of Union of India vs. Rajeev Bansal [2024] 167 taxmann.com 70 (SC)/[2024] 469 ITR 46 (SC).

1.3. That on the facts and circumstances of the case and in law the Ld. NFAC has erred in upholding reassessment proceedings although the notice issued under section 148 of the Income Tax Act, 1961 does not contain a valid DIN.

2. The appellant craves leave to add, amend, alter or delete any of the above 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 in the present appeal the assessee has only challenged the validity reopening and notice under section 148. The Id. AR of the assessee submits that case of assessee for AY 2017-18 was reopened beyond the three years from the end of relevant assessment year. As per the amended provisions after amendment by Finance Act 2021, applicable w.e.f. 01.04.2021 if the case is reopening is beyond three years from the end of relevant assessment year, the approval of reasons recorded should be approved by Principal Chief Commissioner of Income tax (Pr CCIT) or Principal Director General or Chief Commissioner or Director General. However, the assessing officer obtained approval from the Pr. Commissioner of Income Tax (Pr CIT), who was not a competent sanctioning authority as per section 151(ii) of amended provision. The assessing officer was required to obtain approval / sanction from Principal Chief Commissioner of Income Tax (Pr. CCIT). The Id. AR of the assessee submits that copy of notice under section 148 dated 27.07.2022 is placed on record at page no. 24 & 25 of paper book, wherein it has been clearly mentioned that the said notice is issued after obtaining prior approval of Pr. CIT – 20, Mumbai on 27.07.2022. The assessing officer was required to obtain sanction/approval from Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General. The Id. AR of the assessee submits that though he has raised issue against non-mentioning Document Identification Number (DIN) of notice under section 148, however, he is pressing such ground of appeal at this stage.

3. On the other hand, learned Senior Departmental Representative (Id. Sr. DR) for the revenue after going through the copy of notice under section 148 dated 27.07.2022 and other material on record submits that he supports the orders of lower authorities.
4. I have considered the rival submissions of both the parties and have gone through the orders of lower authorities carefully. I have also deliberated on various material placed before me and the case laws relied by Id. AR of the assessee. On perusals of record, I find that case of assessee for A.Y. 2017-18 was reopened by issuing notice under section 148 dated 27.07.2022. Admittedly the case of assessee for AY 2027-18 is reopened after elapsing three years from the end of relevant assessment years. The assessing officer obtained the approval/sanction from Pr. CIT as mentioned in the notice itself. However, after amendment by way of Finance Act, 2021, as per new regime if the case of assessee is reopened beyond three years from the end of relevant assessment year, the approval of Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General is required. Admittedly, the assessing officer has obtained from Pr. CIT – 20 on 23.07.2022 who is not competent, therefore, notice under section 148 is invalid. Once notice is invalid, therefore, subsequent action initiated on such invalid notice is *void ab initio*. Thus, the assessee succeed on primary submission of Id. AR of the assessee. Considering the fact that assessee has succeeded on primary submission of Id. AR of the assessee, therefore, adjudication of other issued and on merit has become academic. In the result, ground of appeal of assessee is allowed.

5. 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