

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "E", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No.2165/M/2025
Assessment Year: 2017-18**

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| Ms. Kavita Satish Sethi, 1004 Glain Classic, Click Avenue, Hiranandani Powai, Mumbai Maharashtra – 400 076 PAN: ADFPS2219D | Vs. | National Faceless Appeal Centre (NFAC), North Block, New Delhi - 110001 |
| (Appellant) | | (Respondent) |

Present for:

Assessee by : Shri Jitendra Singh, Ld. A.R.
Revenue by : Shri Hemanshu Joshi, Ld. Sr. D.R.

Date of Hearing : 23.07.2025
Date of Pronouncement : 29.07.2025

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 30.01.2025, impugned herein, passed by the National Faceless Appeal Center (NFAC)/ Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2017-18.

2. The Assessee has raised the legal issue pertaining to the issuing of notice u/s 148 of the Act not being sanctioned by the Specified Authority, as enshrined in section 151 of the Act and as applicable to the case of the Assessee, first time before this Court and therefore the Ld. DR has claimed that such issue cannot be

allowed to be raised before the Tribunal first time, without being challenging the same before the authorities below.

Admittedly, the Assessee has not filed any application for raising this particular legal issue, however, it is the mandate of the law as enshrined/promulgated by the Hon'ble Apex Court in National Thermal Power Corporation Ltd. vs. CIT (1998) 97 Taxman 358 (SC) to the effect **"that Tribunal has jurisdiction to examine a question of law, which arises from the facts as found by the authorities below and having a bearing on the tax liability of the Assessee"**. Thus, by considering the peculiar facts and circumstances, as the legal issue raised by the Assessee emanates from the orders passed by the Authorities below and goes to the root of the case, we are inclined to allow the Assessee to raise this legal issue for adjudication.

3. Coming to the legal ground raised by the Assessee qua issuance of notice u/s 148 of the Act without getting sanction from Specified Authority, as empowered by section 151 of the Act, we observe that in this case, admittedly, the case of the Assessee was reopened u/s 147 of the Act, after elapsing of three years from the end of the relevant assessment year and by issuing notice dated 31.07.2022 taking approval from the Pr. CIT-17, Mumbai but not from the Pr. CCIT as mandated in section 151 of the Act and thus violated the statutory provisions enshrined in section 151 of the Act, which prescribes Specified authority for granting sanction for reopening of assessment proceedings and/ or issuing notice u/s 148 of the Act. Thus, notice dated 31.07.2022 and the assessment order dated 18.05.2023 u/s 147 r.w.s. 144B of the Act passed in pursuance to the aforesaid notice, are liable to be quashed, thus, the same are quashed.

4. In the result, appeal filed by the Assessee is allowed.

Order pronounced in the open court on 29.07.2025.

**Sd/-
(PRABHASH SHANKAR)
ACCOUNTANT MEMBER**

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.