

आयकर अपीलिय अधिकरण, राजकोट न्यायपीठ, राजकोट
IN THE INCOME TAX APPELLATE TRIBUNAL,
RAJKOT BENCH, RAJKOT

BEFORE DR. ARJUN LAL SAINI, ACCOUNTANT MEMBER
AND
SHRI DINESH MOHAN SINHA, JUDICIAL MEMBER

आयकर अपील सं./ITA No.131/RJT/2025
निर्धारणवर्ष /Assessment Year: 2019-20

Dhanji Murji Hirani, Baladia Bhuj, Kutch, Gujarat 370427 PAN : AFAPH0463B (अपीलार्थी/Appellant)	बनाम Vs.	ITO (Int.Txn), Gandhidham (प्रत्यर्थी/Respondent)
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निर्धारिती की ओर से/Assessee by : Shri Kalpesh Doshi, Id.AR
राजस्व की ओर से/Revenue by : Shri Sanjay Punglia, CIT-DR

सुनवाई की तारीख/Date of Hearing : 17/07/2025
घोषणा की तारीख/Date of Pronouncement : 05/08/2025

ORDER

Per, Dr. Arjun Lal Saini, Accountant Member:

Captioned appeal filed by the assessee, pertaining to Assessment Year (AY) 2019-20, is directed against the order passed by the Learned Dispute Resolution Panel (Ld. DRP)/ Assessing officer, under section 147 r.w.s 144C(13) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'), dated 02.12.2024.

2. The grounds of appeal raised by the assessee are as follows:

1. That, the reassessment u/s 148 of the I.T. Act has wrongly been made without having any information in possession.
2. That, the jurisdiction has been transferred from Bhavnagar to Gandhidham, without passing order u/s 127 of the I.T. Act.



3. *That, the Id. assessing officer has passed the order without having jurisdiction.*
4. *That, the Ld. CIT(Ld. DRP-2) Mumbai-2 has wrongly confirmed the addition of Rs.1,00,60,306/-,on account of unexplained investment u/s 69 I.T. Act, 1961.*
5. *That, the Ld. assessing officer has wrongly applied provisions of section 115BBE of the I.T. Act, 1961.*
6. *That, the Ld. assessing officer has wrongly initiated penalty proceedings u/s 271AAC of the IT. Act, 1961*
7. *That the Ld. assessing officer has wrongly charged interest u/s 234A, 234B, and 234F of the I. T. Act. 1961.*
8. *That, the findings of the Ld. assessing officer and Ld. CIT(Ld. DRP-2) Mumbai-2 are not justified and are bad-in-law.”*

3. The relevant material facts, as culled out from the material on record, are as follows. In this case the assessee had not filed return of income for the year under reassessment, in due course. As per the information and details available on record with the Department, it was noticed by the assessing officer that the assessee had made considerable financial transactions for having tax and revenue implications, however, the assessee failed to truly and correctly disclose the said transactions by filing return of income within the stipulated time limit provided u/s 139 of the Income Tax Act, 1961. Therefore, after following due process u/s 148A of the Income Tax Act, and recording reasons, a notice u/s 148 of the Act, was issued and served upon the assessee. During the course of assessment proceedings, the assessee was requested to furnish the legitimate source of income earned in his country of residence. In this regard, the assessee was requested to submit documents, like income statement/net worth statement filed with any statutory authority, bank account, in assessee's country of residence to prove that the remittances to NRE account in India has been made out of sources of income/ known sources.



4. Assessing officer noticed that during the year under consideration, the assessee had made investment in time deposit of Rs.1,00,60,306/-, with Corporation Bank. During the course of assessment proceeding, the assessee was requested to furnish source of this time deposit with relevant documentary evidences. However, the assessee has not furnished relevant document with regard to source of aforementioned time- deposit. Thus, as per assessing officer, the source of investment made in time deposit amounting to Rs. 1,00,60,306/- remains unexplained. Therefore, the amount of Rs. 1,00,60,306/- was added to the total income of the assessee u/s.69 r.w.s.115BBE of the Act for the assessment year (AY) 2019-20.

5. Aggrieved by the draft order of the assessing officer, the assessee carried the matter in appeal before the Id. Dispute Resolution Panel (in brief “Ld. DRP”), who has confirmed the action of the assessing officer. Before learned DRP, the assessee submitted additional evidences to prove the investment in time deposit of Rs.1,00,60,306/-in NRE Account No. 520121001132373, with Union Bank of India. That is, all related documents along with detailed entry wise justification for the same with supporting were submitted in the additional evidences. These additional evidences include, assessee's company in country of residence regarding tax paid salary, copy of passport, Salary Statement, Source of Amount, copy of PR & copy of his legitimate source of tax paid salary, evidences about some of the previously made FDR made and matured and got credited in account. The assessee also submitted closure proceeds of FDR previously made. All these additional evidences were remitted back to the file of the assessing officer for his comment and remand report. The assessing officer, having examined, the above additional evidences, submitted his remand report before the learner DRP. The assessee also submitted his reply against the remand report of the assessing officer before the learned DRP. However,



learned DRP rejected the contention of the assessee and held that assessee has not been able to prove that the sources of funds used for making investment in the time deposits/FDRs were legitimate and out of tax paid/disclosed sources of income. Therefore, learned DRP upheld the action of the assessing officer and confirmed the addition of Rs.1,00,60,306/- made by the assessing officer. Then, after, based on the above findings of the learned DRP, the assessing officer framed the final assessment order. Aggrieved by the order of the Ld. DRP/assessing officer, the assessee is in further appeal before this Tribunal.

6. Shri Kalpesh Doshi, Learned Counsel for the assessee, argued on first technical issue, raised in the grounds of appeal and stated that approval given by the higher authorities u/s 151 of the Act, is bad in law, as there is no signature on the approval, under section 151 of the Act, by any higher authorities, and approval is without application of mind, therefore assessment order framed by the assessing officer, based on **“no approval”** and based on **non-application** of mind, may be quashed.

7. On the other hand, the ld.CIT-DR for the revenue submitted that approval given by the higher authorities u/s 151 of the Act, is as per the provisions of the Act, therefore, ld.CIT-DR relied on the findings of the assessing officer.

8. We have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the ld DRP and other materials brought on record. First, technical and legal issue raised by the assessee is that approval given by the higher authorities u/s 151 of the Act, is not signed by the concerned higher authority, and such approval was given without application of mind in a



mechanical way, therefore, assessment order framed by the assessing officer, should be treated invalid in the eye of law. In order to adjudicate this technical issue, let us, first examine the document of the revenue authorities (Income Tax Department) for approval under section 151 of the Income Tax Act 1961, which is placed in Paper Book at Page No. 57 of the assessee`s paper book. The said approval given by the higher authorities u/s. 151 of the Income Tax Act, 1961, is reproduced below, for our analysis:

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE PRINCIPAL
COMMISSIONER OF INCOME TAX
PCIT, Ahmedabad-1

Approval u/s 151 of the IT Act, 1961

PAN:	AFAPH0463B	Assessment Year:	2019-20	Date:	22/03/2023	DIN:	ITBA/AST/S/118/2022-23/1051095194(1)
1.	Name of the assessee	DHANJI MURJI HIRANI					
2.	Address and e-mail of the assessee	BALADIA, BHUJ., KUTCH /					
3.	PAN	AFAPH0463B					
4.	Status	Individual					
5.	Circle/ Ward/ Range/ CIT Charge	WARD -1(2), BHAVNAGAR / RANGE 1, BHAVNAGAR / PCIT, Ahmedabad-1					
6.	Assessment year	2019-20					
7.	The quantum of income which has escaped assessment	29437004					
8.	Approval needed for	Order u/s 148A(d) required for issuance of notice u/s 148					
9.	Time limit for current proceedings covered under	u/s 149(1)(a) - for 3 years					
10.	Limitation date for issuance of notice u/s 148	31/03/2026					
11.	Whether the show cause notice u/s 148A(b) contains the details of the information, as per explanation-1 of Section 148.	Yes					
12.	(i) Enquiry conducted (if any), u/s 148A(a)	Yes / 16-FEB-23					
	(ii) Whether the show cause notice u/s 148A (b) contains the details of results of enquiry conducted 148A (a).	Yes					
13.	Date of issue of show cause notice to assessee u/s 148A(b)	04-MAR-23					
14.	Date by which assessee was required to submit reply to show cause notice u/s 148A(b) or the final extended date	11-MAR-23					
15.	Whether any reply received from assessee u/s 148A(b)?	No					
16.	Whether personal hearing requested by assessee	No					
17.	Whether the provision of Sec, 150(1) are applicable.	No					
18.	Reasons for the belief that income has escaped assessment.	Refer Order u/s 148A(d) for details					
19.	Recommendations of the Additional/ Joint CIT	Remarks: Ongoing through the draft order u/s. 148A(d), I am satisfied with draft submitted by Assessing Officer & this is fit case for issuance of notice u/s. 148 of the I T Act, 1961. The draft order may kindly be approved.					

to be taken as date of document. Ahmedabad, Gujarat, 380015

20.	Recommendations of the CIT/PCIT (where CCIT/PCCIT is the specified authority)	Name: PARMAR ALPESHKUMAR TRIKAMLAL Designation: RANGE 1, BHAVNAGAR Date: 18/03/2023 Remarks: N/A Name: N/A Designation: N/A Date:
21.	Recommendations of the CCIT (where PCCIT is the specified authority)	Remarks: N/A Name: N/A Designation: N/A Date:
22.	Reasons for according approval/ rejection by the specified authority to order u/s 148A(d) AND/OR issuance of notice under section 148 of the Income Tax Act, 1961?	Remarks: Looking to the information received and the opportunity given, the said draft orders u/s 148A(d) of the IT Act are found in order. I am satisfied that this is fit case to issue notice u/s 148 of the IT Act. Therefore, undersigned being the competent authority as per section 151 of the IT Act, accord approval as per the provisions of section 148 of the IT Act. Name: SANDEEP JAIN Designation: PCIT, Ahmedabad-1 Date: 22/03/2023



9. From the above approval document, under section 151 of the Income Tax Act 1961, it is vivid that there is no signature of the concerned authority, therefore, in the absence of signature by the concerned Authority, the above approval document, cannot be enforced in the eye of law. In order to create a legal document, the first and primary condition is that it should be signed by the concerned authority. We note that section 151 of the Act, mandates prior approval of the “specified authority” before issuing a notice under Section 148 for income escaping assessment. If the document granting approval lacks a manual or digital signature, it calls into question the authority's satisfaction. Physical signature is the traditional evidence of approval. In ITBA (Income Tax Business Application), digital approvals (like authenticated login-based approvals) may suffice legally if appropriately recorded. In the above approval note we find that there is neither physical signature nor digital signature of any Income tax authority. However, where no authentication or evidence of the approving authority's satisfaction is found (either digitally or physically), the approval may be deemed invalid. Absence of evidence showing application of mind or digital signature led to reassessment quashing, and consequently, the reassessment order framed by the assessing officer, based on the above approval should be quashed.

10. Therefore, we note that an assessment order based on an unsigned approval under Section 151 may be quashed if, there is no evidence of digital or physical approval and there is no application of mind by the approving authority. Whenever a statute requires a particular act to be done in a particular manner and also lays down that failure to comply will have consequence. In the assessee's case under consideration, it would be difficult to accept the argument Id.CIT-DR for the revenue that approval under section 151 of the Act is in accordance with law. That is, in our view, approval under section 151 of the Act, is not in accordance with law, as there is non-application of mind by the



assessing officer, as well as, there is no physical or digital signature, on the said approval by the concerned authority, under section 151 of the Act. Article 265 of the Constitution of India lays down that, “No tax shall be levied or collected except by authority of law”. The Hon’ble Supreme Court of India has held that the this provision under Article 265 of the Constitution of India is applicable not only for levy but also for the collection of taxes and the expression “assessment” within its compass covers both the aspects carried out by the executive functionary. Chottabhai Vs. Union of India 1962 SCR Supl.2 1006. Therefore, it is required that whole of the process of taxation must follow the procedures which are valid under the law and must adhere to law i.e. substantive one as well as **procedural one too**. Therefore, in other words it is provided in the Constitution of India that every step should be taken to ensure that levy and collection of the taxes is strictly in accordance with law – not only substantive one **but the procedural law, as well**.

11. We find that the order u/s 148A(d) of the Act and the notice u/s 148 of the Act are issued on 22/03/2023. It is stated in the order that the approval of specified authority has been obtained. However the same is silent as to which specified authority has given the approval. Also the notice u/s 148 of the Act is silent, as to from, which authority the approval was obtained by the assessing officer. However, the copy of approval u/s 151 of the Act, was provided to the assessee, dated 22/03/2023, which states that the approval of learned PCIT Ahmedabad-1, is obtained. With regards to the same it is stated by Id Counsel that the approval, so obtained is without application of mind and mechanical in nature also. The assessee`s case had been reopened by non-jurisdictional assessing officer not having international charge. Also the reopening is merely made on the basis of transaction value without quantifying the amount of income escapement. Further it is stated that the specified authority has merely stated that he is satisfied with the reasons and is convinced that the case is fit for



the reopening without having tangible material on hand and merely by relying on third party information. The snap shot of para 22 from the approval is enclosed hereunder:

22.	Reasons for according approval/rejection by the specified authority to order u/s 148A(d) AND/OR issuance of notice under section 148 of the Income Tax Act, 1961?	Remarks: Looking to the information received and the opportunity given, the said draft orders u/s 148A(d) of the IT Act are found in order. I am satisfied that this is fit case to issue notice u/s 148 of the IT Act. Therefore, undersigned being the competent authority as per section 151 of the IT Act, accord approval as per the provisions of section 148 of the IT Act. Name: SANDEEP JAIN Designation: PCIT, Ahmedabad-1 Date: 22/03/2023
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Further, in the reasons provided, the addition has been suggested on the basis of transactions entered into the NRE account. However, it is stated that no domestic income can be credited in an NRE account and therefore there is no question of income earned or accrued in India. Therefore, it can be stated that the approval so provided is without application of mind and is mechanical in nature.

12. We note that provisions of section 151 of the Act are an important procedural safeguard against arbitrary exercise of power of issuing a notice for reopening of assessment, previously framed after scrutiny. Such requirement cannot be seen as technical. Compliance of such requirement is therefore, necessary before issuance of notice under section 148 of the Act, as held in the case of Adani Ports And Special Economic Zone Ltd. V. DCIT (35 taxmann.com 338) (Gujarat) wherein it has been held that the satisfaction recorded but the designated authority must reflect independent application of mind and not merely a borrowed satisfaction. The above approval is given by simply relying on reasons without applying mind and recording objective satisfaction stating documents perused. Therefore, we note that the authority has



failed to peruse the information on the basis of which reasons are recorded. There is no objective satisfaction recorded by approving authority which reflects that there is application of mind and not borrowed satisfaction of assessing officer (AO). Therefore, it can be stated that the approval given by Id. PCIT is mechanical in nature and without application of mind.

13. In the assessee`s case the snapshot of Recommendations of the Additional/ Joint CIT is as follows:

19.	Recommendations of the Additional/ Joint CIT	Remarks: Ongoing through the draft order u/s 148A(d), I am satisfied with draft submitted by Assessing Officer & this is fit case for issuance of notice u/s 148 of the IT Act, 1961. The draft order may kindly be approved.
		Name: PARMAR ALPESHKUMAR TRIKAMLAL Designation: RANGE 1, BHAVNAGAR Date: 18/03/2023

The above recommendations approval is given without applying mind and without recording objective satisfaction. It is established principle of law that if a particular authority has been designated to record his/her satisfaction on any particular issue, then it is that authority alone who should apply his/her independent mind to record his/her satisfaction and further mandatory condition is that the satisfaction recorded should be "independent" and not "borrowed" or "dictated" satisfaction.

14. We note that the Hon'ble Supreme Court in the case of CIT v. S. Goyanka Lime & Chemicals Ltd. (64 taxmann.com 313) has dismissed the SLP and held that where Joint Commissioner recorded satisfaction in mechanical manner by merely quoting **“yes I am satisfied”** and without application of mind to accord sanction for issuing notice under section 148, reopening of assessment was invalid. Similar view has been taken by Hon'ble Supreme Court in the case of



Chhugamal Rajpal Vs. S.P. Chaliha & Ors. (SC) (79 ITR 603), that the Commissioner had mechanically accorded permission. He did not himself record that he was satisfied that this was a fit case for the issue of a notice under section 148. *To question No. 8 in the report which read whether the Commissioner is satisfied that it is a fit case for the issue of notice under section 148", he just noted the word "Yes" and affixed his signature thereunder. The Court was of the opinion that if only he had read the report carefully, he could never have come to the conclusion on the material before him that this was a fit case to issue notice under section 148. The important safeguards provided in section 147 and 151 were highly treated by the ITO as well as by the Commissioner. Both of them appeared to have taken the duty imposed on them under these provisions as of little importance. They substituted the forum for the substance. In the result this appeal was allowed, the order of the High Court was set aside and the impugned notice quashed.*

15. Our view is further fortified by the judgement of Co-ordinate Bench of ITAT Agra in the case of Shri Ghanshyam v. ITO (ITA No. 238/Agra/2018) (Agra ITAT), wherein it was held that section 151 of the Act provides a safeguard that the sword of section 147 of the Act may not be used unless the competent statutory officer is satisfied that the assessing officer has good and adequate reasons to invoke the reopening provisions. As per the mandate of section 151(2) of the Act, the Competent Authority has to examine the reasons, material or grounds on which the reopening is sought to be based and to judge as to whether they are sufficient and adequate to the formation of the necessary belief of escapement of income from taxation on the part of the assessing officer. It is, if and only if, the Competent Authority, after applying his mind, is of the opinion that the AO's belief is well reasoned and bona-fide, that he will accord his sanction thereon. Similarly, the Co-ordinate Bench of ITAT Delhi in the case of M/s. Virat Credit & Holdings Pvt. Ltd. (ITA No.89/Del./2012)



(Delhi ITAT), held that from the approval recorded and words used that "**Yes, I am satisfied.**", it has proved on record that the sanction is merely mechanical and Addl.CIT has not applied independent mind while according sanction as there is not an iota of material on record as to what documents he had perused and what were the reasons for his being satisfied to accord the sanction to initiate the reopening of assessment u/s 148 of the Act.

16. Therefore, we note that the sanction granted is mechanical and contrary to section 151 of the Act. Therefore, in the light of the aforesaid facts and circumstances of the case as discussed , we find that the approval under section 151 of the Act, is not in accordance with Law, therefore, the very assumption of jurisdiction to reassess the assessee`s income fails. Since the approval under section 151 of the Act, is bad in the law , as discussed above, therefore the assumption of jurisdiction by assessing officer to reopen assessee`s case is itself *corum non judice* and, therefore, all subsequent action is null in the eyes of law and therefore, we quash the reopening and consequent reassessment order framed by assessing officer. Accordingly, we quash the reassessment order, under section 147 r.w.s.144C (13) of the Act, dated 25.12.2024.

17. As the reassessment itself is quashed, all other issues on technical grounds and on merits of the additions, in the impugned assessment proceedings, are rendered academic and infructuous.

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

Order is pronounced in the open court on 05/08/2025

**Sd/-
(DINESH MOHAN SINHA)
JUDICIAL MEMBER**

**Sd/-
(DR.ARJUN LAL SAINI)
ACCOUNTANT MEMBER**

राजकोट /Rajkot

दिनांक/ Date: 05/08/2025



**rk*

आदेश की प्रतिलिपि अत्रेषित/ Copy of the order forwarded to :

- अपीलार्थी/ The Appellant
- प्रत्यर्थी/ The Respondent
- आयकर आयुक्त/ CIT
- आयकर आयुक्त(अपील)/ The CIT(A)/(NFAC), Delhi.
- विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, राजकोट/ DR, ITAT, RAJKOT
- गार्डफाईल/ Guard File

By order/आदेशसे,

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Assistant Registrar/Sr. PS/PS
ITAT, Rajkot