

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B": NEW DELHI**

**BEFORE Ms. MADHUMITA ROY, JUDICIAL MEMBER
AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

**ITA No. 316/DEL/2025
Assessment Year: 2016-17**

Rama Associates Private Limited, earlier as Essel Realty Developers Pvt. Ltd.,B-10, Lawrence Road Industrial Area, New Delhi-110035. PAN: AAACR 5728 B	<u>Vs</u>	NFAC, Assessment Unit
APPELLANT		RESPONDENT
Assessee represented by	Shri Rajat Jain, Adv.	
Department represented by	Ms. Pooja Swaroop, CIT(DR)	
Date of hearing	08.09.2025	
Date of pronouncement		

ORDER

PER Ms. MADHUMITA ROY, JM:

The instant appeal, preferred by the assessee, is directed against the order dated 21.11.2024 [DIN & ORDER No. ITBA/NFAC/S/250/2024-25/1070530742(1) CIT(A)/NFAC, Delhi, arising out of the order dated 26.05.2023, passed by the National Faceless Assessment Centre, Delhi under Section 147 read with section 144B of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for the Assessment Year 2016-17.

2. The sole issue involved in the instant appeal for adjudication is as to whether the approval obtained by the AO from the Pr.CIT-I, New Delhi to issue notice u/s 148 of the Act for A.Y. 2016-17 u/s 151(i) of the Act is sustainable in the eyes of law or not?

3. We have heard rival submissions and perused the relevant material available on record.

4. The notice appearing at page 25 of the paper book, filed before us, dated 30.07.2022 under Section 148 of the Act is upon approval granted by the Pr. CIT-1, New Delhi under Section 151(i) of the Act. However, the notice has been issued after elapse of more than 3 years from the end of relevant assessment year, hence approval in the present facts and circumstances of the matter is required to be obtained from the Pr. CCIT in terms of the provisions of Section 151(ii) of the Act.

5. Learned AR relied upon the orders of the Coordinate Bench in the case of Aftab Ahmad Shah v. ACIT, Circle-3(1)(2), New Delhi [ITA No. 1866/Del/2024 – order dated 05.06.2025], wherein approval granted by the Pr.CIT u/s 151(ii) on identical facts and circumstances was found to be invalid and accordingly the entire assessment was quashed, inter alia, by observing as under:

“8. At this juncture we find it appropriate to deal with the additional ground taken by the assessee that approval in terms of section 151 of the IT Act has not been obtained by the AO. Order under section 148A(d) was

passed on 26/07/2022 and notice under section 148 was issued on 27/07/2022 after obtaining prior approval of the Commissioner of Income Tax-1, (International Taxation). The relevant portions of section 148, 149 and 151 as amended by Finance Act, 2021 which governs the issue of approval at hand, are reproduced hereunder:

I st Proviso to Section 148.

"Provided that no notice under this section shall be issued unless there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year and the Assessing Officer has obtained prior approval of the specified authority to issue such notice:

" Section 149 reads as under:

149. (1) No notice under section 148 shall be issued for the relevant assessment year,-

(a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);

(b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represent in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more that year."

Section 151 reads as under:

151. Sanction for issue of notice:- Specified authority for the purposes of section 148 and section 148A shall be,-

(i) Principal Commissioner or Principal Director or Commissioner or Director, if three years or less than three years have elapsed from the end of the relevant assessment year;

(ii) Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General, if more than three years have elapsed from the end of the relevant assessment year.

9. In the instant case, notice under section 148 dated 27.02.2022 was issued for escapement of income of Rs. 2,27,31,635/- which is above Rs 50 lakh. The notice u/s 148 was issued for a period beyond three years from the relevant assessment year. In terms of provisions of Section 151, as amended by Finance Act, 2021, therefore, the specified authority for grant of approval becomes Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General. We find that in the instant case, the approval u/s 151 has been obtained from the Principal Commissioner of Income Tax1 (International Taxation). We are therefore, of the considered view that the impugned re-assessment is vitiated for want of proper, legal and valid approval u/s 151(ii). Accordingly, the reassessment made in the instant case can not be sustained and we hereby quash the said reassessment. The additional ground of appeal is hereby allowed.

10. We are fortified in our view by the decision of the Hon'ble Delhi High Court in the case of *Twilight Infrastructure Private Limited Vs Income Tax Officer Ward 25(3), Delhi*, which held as under:

"12.3 In these cases, there is no dispute that although three (3) years had elapsed from the end of the relevant AY, the approval was sought from authorities specified in clause (1), as against clause (ii) of Section 151.

12.4 Before us, the counsel for the revenue continue to hold this position. The only liberty that they seek is that if, based on the judgement in *Ganesh Dass Khanna*, the impugned orders and notices are set aside, liberty be given to the revenue to commence reassessment proceedings afresh.

13. Therefore, having regard to the aforesaid, the impugned notices and orders in each of the above-mentioned writ petitions are quashed on the ground that there is no approval of the specified authority, as indicated in Section 151(ii) of the Act. The direction is issued with the caveat that the revenue will have liberty to take steps, if deemed necessary, albeit as per law."

11. As the case has been decided on the basis of jurisdictional ground, no adjudication is made on the merits of the case."

6. Learned AR further submitted that the aforesaid view has been followed by the Coordinate Bench in the case of *DCIT, CC-13 v. Paragon Industries Limited*

[ITA No. 5093/Del/2024 – order dated 20.08.2025], copy whereof has also been considered by us.

7. Having heard the respective parties and considering the facts and circumstances of the matter, particularly the order passed by the Coordinate Bench, involving identical issue for adjudication, as mentioned herein above we find that the impugned notice u/s 148 of the Act is bad in the eyes of law as the same was issued by obtaining approval from the Pr. CIT which ought to have been obtained from the PCCIT as per section 151(ii) of the Act. In that view of the matter we are of the considered opinion that the impugned re-assessment in the instant case is vitiated for want of proper, legal and valid approval u/s 151(ii), and thus the entire proceeding is hereby quashed.

8. In the result, assessee's appeal in ITA No. 316/DEL/2025 is allowed.

Order pronounced in open court on 09.09.2025.

Sd/-

(NAVEEN CHANDRA)
ACCOUNTANT MEMBER

Dated: **09.09.2025.**

MP

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(MS. MADHUMITA ROY)
JUDICIAL MEMBER

ASSISTANT REGISTRAR
ITAT, NEW DELHI