

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"A" BENCH, AHMEDABAD**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT  
MS. SUCHITRA R. KAMBLE, JUDICIAL MEMBER**

ITA Nos. 1428 & 1429/Ahd/2024  
(Assessment Year: 2016-17 & 2017-18)

Income Tax Officer, Ward-3(3)(1), Ahmedabad	Vs.	Ambalia Hitesh Chhaganlal HUF, 2, Pushp Bungalow, Ashok Vatika, Bodakdev, Ahmedabad-380054 [PAN : AADHA 8726 N]
<b>(Appellant)</b>	..	<b>(Respondent)</b>
<b>Appellant by :</b>	Shri Mehul K. Patel, Advocate	
<b>Respondent by:</b>	Shri B.P. Srivastava, Sr DR	
<b>Date of Hearing</b>	23.09.2025	
<b>Date of Pronouncement</b>	26.09.2025	

**ORDER**

**PER DR. B.R.R. KUMAR, VICE-PRESIDENT:-**

These two appeals have been filed by the Revenue against the orders dated 03.06.2024 passed by the Ld. Commissioner of Income-Tax (Appeals), National Faceless Appeal Centre, Delhi ("Ld. CIT(A)" for short), under Section 250 of the Income-tax Act, 1961 ("the Act" for short), relating to the Assessment Years 2016-17 & 2017-18.

2. Since the issue involved in both appeals is identical, we find it convenient to dispose of them through a common order. For the purpose of narrating the facts of the case, we take up ITA No. 1428/Ahd/2024 for the AY 2016-17 as the lead case.

3. The case was reopened u/s 147 of the Act on the basis of information received from the Investigation Wing pursuant to a search and seizure operation conducted on the Kushal Group on 05.02.2019. During reassessment proceedings, the Assessing Officer treated the LTCG of Rs. 2,92,64,512/- as bogus and added the same as unexplained cash credit under section 68 of the Act and taxed under

section 115BBE of the Act. The assessment was completed on 29.05.2023 under section 147 r.w.s. 143(3) and 144B of the Act.

4. Aggrieved by the order of the Assessing Officer, the assessee preferred appeal before the Ld. CIT (A). The Ld. CIT(A), after considering the submissions of the assessee and relying on various judicial precedents, deleted the impugned addition made by the Assessing Officer.

5. Aggrieved by the relief granted by the Ld. CIT(A), the Revenue is now in appeal before the Tribunal.

6. At the outset, a legal ground challenging the validity of the reassessment proceedings was raised orally on the ground that the sanction obtained under section 151 of the Act prior to issuance of notice under section 148 was not by the competent authority. We have considered the legal ground raised before us in view of the decision of the Hon'ble Supreme Court in the case of National Textile Corporation Ltd. vs. Nareshkumar Badrikumar Jagad & Ors., Civil Appeal No. 7448 of 2011 (dated 05.09.2011), wherein it was held that a pure question of law can be raised at any stage of proceedings if it does not require further investigation into facts. In the present case, the notice u/s 148 was issued on 31.07.2022 (AO page 2), which is beyond 3 years from the end of the relevant assessment year. Hence, as per section 151(ii), sanction from the Principal Chief Commissioner or Chief Commissioner was required. However, the approval was accorded by the Principal Commissioner of Income-tax-17, Mumbai, as evident from the notice u/s 148 and the order u/s 148A(d) of the Act. Even at this juncture, the reasons recorded cannot be improved upon notwithstanding that the approval u/s 151 of the Act.

7. Section 151(ii), with effect from 01.04.2021, reads as under:-

***[Sanction for issue of notice.***

***151. Specified authority for the purposes of section 148 and section 148A shall be,—***

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*(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.]***

The Assessing Officer issued the notice u/s 148 of the Act on 31.07.2022 without taking the approval of the PCCIT who is the specified authority for approval of notice u/s 148 of the Act. The case of the assessee for AY 2016-17 i.e. the year under consideration has been reopened vide issue of notice u/s. 148 of the Act on 31.07.2022 (AO page 2), i.e. after more than 3 years have been elapsed from the end of the relevant assessment year. The specified authority for the purpose of granting sanction to the order u/s 148A(d) of the Act as well as notice u/s 148 of the Act was the Principal Chief Commissioner/ Chief Commissioner of Income Tax as provided in clause (ii) of section 151 of the Act. However, in the present case, no such sanction has been granted. Accordingly, the sanction granted by the non-specified authority is invalid and therefore, the order u/s 148A(d) of the Act as well as notice u/s 148 of the Act are invalid, without jurisdiction and bad in law. Reliance is being placed on the judgment of the Hon'ble Bombay High Court in the case of Siemens Financial Services Pvt Ltd vs DCIT (WP No.4 888/2022) wherein it was observed as under:

*"Under section 151 'specified authority' for the purposes of section 148 and section 148A shall be, if three years or less than three years have elapsed from the end of the relevant assessment year, Principal Commissioner or Principal Director or Commissioner or Director. If more than three years have elapsed from the end of the relevant assessment year, then Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General. [Para 20] Admittedly, in this case, the approval/sanction for order under section 148A(d) has been granted by the Principal Commissioner. The entire controversy is, therefore, (a) whether the Principal Commissioner was the specified authority, who could have granted the approval/sanction, (b) if not, the effect thereof. [Para 21]*

*As per section 151, the 'specified authority' who has to grant his sanction for the purposes of section 148 and section 148A is the Principal Chief Commissioner or Principal Director General or where there is no Principal*

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*Chief Commissioner or Principal Director General, the Chief Commissioner or Director General if more than three years have elapsed from the end of the relevant assessment year. The present petition relates to the assessment year 2016-17, and as the impugned order and impugned notice are issued beyond the period of three years which elapsed on 31st March, 2020 the approval as contemplated in section 151(ii) of the Act would have to be obtained which has not been done by the Assessing Officer. The impugned notice mentions that the prior approval has been taken of the 'Principal Commissioner of Income-tax which is bad in law as the approval should have been obtained in terms of section 151(ii) and not section 151(i) of the Act and the Pr. Commissioner - cannot be the specified authority as per section 151. Further, even in the affidavit-in-reply, the department has accepted that the approval obtained is of the 'Principal Commissioner of Income-tax' and, hence, such an approval would be bad in law. [Para 24]*

*Hence, in the present facts also since the approval of the specified authority in terms of section 151(ii) is a jurisdictional requirement and in the absence of complying with this requirement, the reopening of assessment would fail. [Para 33]"*

8. The Hon'ble jurisdictional High Court as well as various Benches of the Tribunal have consistently held that sanction obtained from an authority not competent u/s 151 vitiates the entire proceedings and renders the notice issued u/s 148 as invalid and without jurisdiction. Therefore, we hold that the reassessment proceedings initiated against the assessee are *void ab initio* and bad in law.

9. In view of the above, we do not find it necessary to go into the merits of the addition made by the Assessing Officer or the deletion thereof by the Ld. CIT(A).

10. In the result, both the appeals of the Revenue are dismissed.

**The order is pronounced in the open Court on 26.09.2025.**

**Sd/-**

**(SUCHITRA R. KAMBLE)  
JUDICIAL MEMBER**

**Sd/-**

**(DR. B.R.R. KUMAR)  
VICE-PRESIDENT**

Ahmedabad; Dated 26.09.2025

*\*\*btk*

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**आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

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आदेशानुसार/ BY ORDER,

सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad