

**IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH MUMBAI**

**BEFORE HON'BLE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &
SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER**

**ITA No. 4423/Mum/2025
(Assessment Year: 2016-17)**

Aamyia Resources LLP 1, Wilson House, Old Nagardas Road, Andheri (E), Mumbai – 400069.	Vs.	ITO, Ward 24(1)(1) Piramal Chamber, Mumbai – 400012.
PAN/GIR No. ABCFA4651A		
(Applicant)		(Respondent)
Assessee by	Shri Satish Aggarwal (virtually appear)	
Revenue by	Shri Surendra Mohan, Sr. DR	
Date of Hearing	21.08.2025	
Date of Pronouncement	24.09.2025	

आदेश / ORDER

PER SANDEEP GOSAIN, JM:

The present appeal has been filed by the assessee challenging the impugned order 11.10.2019 passed u/s 250 of the Income Tax Act, 1961 ('the Act'), by the National Faceless Appeal Centre / CIT(A), Mumbai for the assessment year 2015-16.

2. Although, assessee had raised number of grounds in the present appeal but at the outset Ld. AR pressed Ground No.4 which is legal in question and it goes to the roots of the case. Therefore, we have decided to adjudicate this ground firstly, **Ground No. 4**, which is reproduced herein below:

4. *In law and facts of the case, the Ld. CIT(A) has grossly erred in not following the ratio of the decision of Supreme Court in the case of Union of India Vs. Rajeev Bansal 167 taxmann.com 70 and in confirming the action of the Ld. Ld.AO in reopening the assessment despite the approval / sanction for issue of notice u/s 148 of the Act not having in consonance with the provisions of Sec. 151(ii) of the Act.*

3. This ground raised by the assessee relates to challenging the order of Ld. CIT(A) in confirming the action of AO in reopening the assessment despite the approval / sanction for issuance of notice u/s 148 of the Act. Not having in consonance with the provisions of Sec. 151(ii) of the Act . In this regard the assessee relied upon his written submissions, which is reproduced herein below:

8. *It is undisputed that the notice under section 148 of the Act, dated 29.07.2022, was issued to the LLP after obtaining approval from PCIT instead of PCCIT. The Notice under section 148 of the Act, is illegal, bad in law as it is issued 3 years after the end of the Assessment Year 2016-17, and deserves to be quashed.*

9. *The issue of notice under section 148 of the Act, consequent to the judgment of Supreme Court in the case of Union of India and others vs Ashish Agarwal after obtaining approval from PCIT instead of from PCCIT is contrary to the provisions of section 151(ii) of the Act and the judgment of Supreme Court in the case of Union of India vs Rajiv Bansal 301 Taxman 238 (SC)/[2024] 469 ITR 46(SC)[03-10-2024]. The notice issued under section 148 of the Act, is liable to be quashed. (copy of judgement enclosed in paper book at page no. 1-42)*

10. *The case of the assessee did not get time-barred between the period 20th March 2020 to 31st March 2021 as the alleged escapement of income was more than Rs.50,00,000/- in view of which TOLA was not applicable.*

11. Before proceeding further, it would be gainful to refer to the Provisions of section 151 of the Act, after the amendment in the act with effect from 1/4/2021 which reads as under-

151. (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..."

12. Reference is invited to the judgment of Hon'ble Supreme Court in the case of *Union of India vs Rajiv Bansal* 301 Taxman 238 (SC)/[2024] 469 ITR 46(SC) [03-10-2024] wherein in concluding para 114 of its judgment, the Supreme Court has held that-

114. In view of the above discussion, we conclude that:

a. After 1 April 2021, the Income Tax Act has to be read along with the substituted provisions;

b. TOLA will continue to apply to the Income Tax Act after 1 April 2021 if any action or proceeding specified under the substituted provisions of the Income Tax Act falls for completion between 20 March 2020 and 31 March 2021;

c. Section 3(1) of TOLA overrides Section 149 of the Income Tax Act only to the extent of relaxing the time limit for issuance of a reassessment notice under Section 148:

d. TOLA will extend the time limit for the grant of sanction by the authority specified under Section 151. The test to determine whether TOLA will apply to Section 151 of the new regime is this: if the time limit of three years from the end of an assessment year falls between 20 March 2020 and 31 March 2021.

13. In para 114(d) the Hon'ble Supreme Court in its judgment in the case of *Rajiv Bansal* (supra) has clarified that the TOLA will apply

to issue of notices for escapement of income which get time-barred between 20th March 2020 to 31st March 2021.

14. The para of 73 of the judgment of Hon'ble Supreme Court in the case of Rajiv Bansal (supra), the Supreme Court has elaborated with a table on the power of the revenue to reopen assessments under section 148 of the Act, after obtaining approval from the specified authority. The relevant quote from para 73 of the judgment is reproduced as under-

73. Section 151 imposes a check upon the power of the Revenue to reopen assessments. The provision imposes a responsibility on the Revenue to ensure that it obtains the sanction of the specified authority before issuing a notice under Section 148. The purpose behind this procedural check is to save the assessee from harassment resulting from the mechanical reopening of assessments. 128 A table representing the prescription under the old and new regime is set out below:

<i>Regime</i>	<i>Time limits</i>	<i>Specified authority</i>
<i>Section 151(2) of the old regime</i>	<i>Before expiry of four years from the end of the relevant assessment year</i>	<i>Joint commissioner</i>
<i>Section 151(1) of the old regime</i>	<i>After expiry of four years from the end of the relevant assessment year</i>	<i>Principal Commissioner or Chief Commissioner or Principal commissioner or commissioner</i>
<i>Section 151(i) of the new regime</i>	<i>Three years or less than three years from the end of the relevant assessment year</i>	<i>Principal Commissioner or Principal Director or Commissioner or Director</i>
<i>Section 151(ii) of the new regime</i>	<i>More than three years have elapsed from the end of the relevant assessment year</i>	<i>Principal Commissioner or Chief Commissioner or Principal Director General or Chief Commissioner or Director General</i>

15. The Supreme Court in para 75 and 76 of its judgment has further held that after 1/4/2021, the different specified authorities as per their new regime for sanctioning the issue of notice under section 148 of the Act, would be as under-

75. After 1 April 2021, the new regime has specified different authorities for granting sanctions under Section 151. The new regime is beneficial to the assessee because it specifies a higher level of authority for the grant of sanctions in comparison to the old regime. Therefore, in terms of *Ashish Agarwal (supra)*, after 1 April 2021, the prior approval must be obtained from the appropriate authorities specified under Section 151 of the new regime.

76. Grant of sanction by the appropriate authority is a precondition for the assessing officer to assume jurisdiction under Section 148 to issue a reassessment notice. Section 151 of the new regime does not prescribe a time limit within which a specified authority has to grant sanction. Rather, it links up the time limits with the jurisdiction of the authority to grant sanction.

Section 151(ii) of the new regime prescribes a higher level of authority if more than three years have elapsed from the end of the relevant assessment year. Thus, non-compliance by the assessing officer with the strict time limits prescribed under Section 151 affects their jurisdiction to issue a notice under Section 148.

16. (i) Reference is also invited to Para 81 of the judgment of Supreme Court in the case of *Rajiv Bansal (supra)* where in the Supreme Court has clarified that the assessing officer is required to obtain prior approval of the specified authority in accordance with section 151 of the new regime before passing an order under section 148(d) of the Act or issuing a notice under section 148 of the Act.

"81. This Court in *Ashish Agarwal (supra)* directed the assessing officers to "pass orders in terms of Section 148A(d) in respect of each of the assesses concerned." Further, it directed the assessing officers to issue a notice under Section 148 of the new regime "after following the procedure as required under Section 148A." Although this Court waived off the requirement of obtaining prior approval under Section 148A(a) and Section 148A(b), it did not waive the requirement for Section 148A(d) and Section 148.

Therefore, the assessing officer was required to obtain prior approval of the specified authority according to Section 151 of the new regime before passing an order under Section 148A(d) or

issuing a notice under Section 148. These notices ought to have been issued following the time limits specified under Section 151 of the new regime read with TOLA, where applicable."

It is evident from perusal of the above relevant extracts from judgement of Supreme Court, the Supreme Court has clearly held that in cases where TOLA was not applicable as in the case of the assessee, the sanctioning authority as per the new regime under section 151(ii) of the Act, would be applicable and notices issued after obtaining sanction from an authority not in accordance with provisions of section 151(ii) of the Act, shall be void.

(ii) ITO V. Pradeep Himatlal Shah [2025] 170 taxmann.com 472 (SC) (Copy of Judgement enclosed in paper Book at page no. 43-44)

Where High Court held that since order under section 148A(d) and notice under section 148 were issued beyond a period of three years, sanction to pass order and issuance of notice was to be accorded by Principal Chief Commissioner as provided under section 151 (ii) and thus, sanction granted by Principal Commissioner was invalid, SLP against order of High Court was to be disposed of in terms of judgment in Union of India v. Rajeev Bansal [2024] 167taxmann.com 70/301 Taxman 238 (SC).

17. Some of the ITAT decisions holding likewise-

(i) Ramchand Thakurdas Jhamtani Vs. ACIT [2025] 173 taxmann.com 182 (Mumbai - Trib.) (Copy of Judgement enclosed in paper Book at page no. 45-49) Where order under section 148A(d) was passed after expiry of 3 years from end of assessment year 2017-18, as per new regime, authority specified under section 151 (ii) was required to grant approval.

(ii) DCIT Vs. SS Jewellery [2025] 173 taxmann.com 189 (Mumbai Trib.) (Copy of Judgement enclosed in paper Book at page no. 50-53) Where assessment was sought to be reopened after three years from end of relevant assessment year, approval of specified authority as per sub-clause(ii) of section 151 was required to be taken; approval granted by Principal Commissioner could not be termed as valid/legal approval.

(iii) Aakruti Ketan Mehta Vs. National Faceless Assessment Centre, [[2025] 173 taxmann.com 265 (Mumbai - Trib.) (Copy of Judgement enclosed in paper Book at page no. 54-59) Where notice under section 148A(b) and order under section 148A(d) were issued after three years from end of relevant assessment year, since approval was obtained from Pr. Commissioner instead of Pr. Chief Commissioner, impugned reassessment was bad in law and liable to be quashed.

18. Reference is invited to some of the judicial precedents including of Bombay High Courts wherein the notice issued under section 148 of the Act, without obtaining approval of the competent authority as per section 151(ii) of the Act, have been quashed.

The Hon'ble Bombay High Court in the case of Vodafone India Limited v. DCIT WP 2766 of 2022 dated February 06, 2024 (Bom)(HC), for AY 2018-19 where Notice under section 148A(b) of the Act was issued in March 2022 and the Order under section 148A(d) and the Notice under section 148 of the Act was issued in April 2022. It was held that where the Assessing Officer passed an order under section 148A(d) of the Act after the expiry of three years from the end of the relevant assessment year without taking approval from PCCIT as contemplated by section 151(ii) of the Act, the same would invalidate reassessment proceedings.

ii) The Hon'ble Bombay High Court has passed similar orders in the case of Chitra Supekar v. ITO [2023] 453 ITR 530 (Bom)(HC),

iii) Cipla Pharma and Life Sciences Ltd. vs DCIT [2024] 164 taxmann.com 663 (Bombay) Where Assessing Officer passed order under section 148A(d) and issued further reopening notice under section 148 beyond period of three years and prior approval was taken from Principal Commissioner in terms of section 151(i) and not by specified authority under section 151(ii), impugned order as well as notice were bad in law and should be quashed and set aside. (Copy of Judgement enclosed in paper Book at page no. 60-64)

iv) JM Financial & Investments Consultancy Services (P.) Ltd. v. ACIT [W.P. No. 1050 of 2020, dated 04-04-2022] (Bom.)

4. On the other hand Ld. DR relied upon the orders passed by the revenue authorities.

5. We have heard the counsels for both the parties, perused the material placed on record, judgments cited before us and also the orders passed by the revenue authorities. From the records we noticed that undisputedly the notice u/s 148 of the Act was issued on 29.07.2022 to the assessee after obtaining approval from PCIT instated of PCCIT. Since the said notice was issued after 3 years of the end of the assessment year. Therefore, as per the provisions of Sec. 151(ii) of the Act the said notice was to be issued after obtaining from PCCIT. But in the present case, the said approval has been sought from PCIT instated of PCCIT, which is contrary to the provisions of Sec. 151(ii) of the Act. The copy of the said notice is at paper book page No. 4 to 5. The identical ground has already been decided and upheld by the Coordinate Bench of ITAT, the details of which is reproduced herein below:

- 1. Union of India vs Rajiv Bansal 301 Taxman 238 (SC)/[2024] 469 ITR 46(SC) [03- 10-2024]**
- 2. ITO V. Pradeep Himatlal Shah [2025] 170 taxmann.com 472 (SC)**
- 3. Ramchand Thakurdas Jhamtani Vs. ACIT [2025] 173 taxmann.com 182 (Mumbai - Trib.)**
- 4. DCIT Vs. SS Jewellery [2025] 173 taxmann.com 189 (Mumbai - Trib.)**
- 5. Aakruti Ketan Mehta Vs. National Faceless Assessment Centre, [[2025] 173 taxmann.com 265 (Mumbai - Trib.)**

6. Cipla Pharma and Life Sciences Ltd. vs DCIT [2024] 164 taxmann.com 663 (Bombay)

7. Kusum Healthcare Private Limited W.P.(C) 383/2023 dated 05.03.2025 (Delhi)

8. Jayanti Real Estate Developers Private Limited Vs Income Tax Officer Ward 13(3) W.P.(C) 154/2023 on 04.03.2025 (Delhi)

9. Twylight Infrastructure (P.) Ltd. v. ITO 158 taxmann.com 378 (Delhi)/[2024] 463 ITR 702 (Delhi) [05-01-2024]

10. Abhinav Jindal (HUF) Vs. ITO [2024] 166 taxmann.com 536 (Delhi)

11. .Bhagwan Sahai Sharma v. Deputy Commissioner of Income-tax, [2025] 305 Taxman 387 (Delhi) [14-05-2025]

12. Andaman Timber Industries 281 CTR 241 (SC)

6. Therefore, considering the entire circumstances as well as legal propositions discussed by us above and keeping in view the principles of '*stare decisis*' we are also of the view that since in the present case the notice u/s 148 of the Act has been issued in contravention to Sec. 151(ii) of the Act, therefore the same is bad in law and thus stands quashed and consequently re-assessment proceedings based on this notice also stands quashed.

7. Since we have already quashed the reassessment proceedings the other grounds raised by the assessee are rendered merely academic and therefore we are not adjudicating upon the same.

8. In the result, the appeal filed by the assessee stands allowed.

Order pronounced in the open court on 24.09.2025.

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Sd/-
(SANDEEP GOSAIN)
JUDICIAL MEMBER

Mumbai, Dated 24/09/2025

KRK, PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

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

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

1.

उप/सहायक पंजीकार (Asst. Registrar)
आयकर अपीलीय अधिकरण, मुम्बई/ ITAT, Mumbai