

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, MUMBAI**

BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER

ITA No. 5512/Mum/2025

A.Ys: 2017-18

Jayashree Ketan Gada 2, Petit Hall, 66, Nepean Sea Road, Near Priyadarshani Park, Mumbai – 400006. PAN – ACMPG7682A	Vs	ITO – 19(1)(5) Mumbai.
(Appellant)		(Respondent)

Assessee by	Shri Mandar Vaidya
Revenue by	Shri Rajesh Sakhardande, Sr. DR

Date of Hearing	29.10.2025
Date of Pronouncement	04.11.2025

ORDER

PER SANDEEP GOSAIN, JM:

This appeal has been filed by the assessee challenging the impugned order dated 01.09.2025 passed under section 250 of the Income Tax Act, 1961 (‘the Act’), by the National Faceless Appeal Centre (NFAC) / CIT(A) for the assessment year 2022-23.

2. At the outset, Ld. AR has raised the additional ground, wherein he has challenged the issuance of notice u/s 148 of the Act on the ground that the approval for issuance of notice sought by the department is in violation of the provisions of Sec. 151 of the Act.

3. After having heard the counsels for both the parties on this application for raising additional ground, I find that this ground raised by the assessee is purely legal in question and requires no further evidence therefore while relying upon the decision in the case of **NTPC V/s. CIT(1998) 229 ITR 383 (SC)** . I allow the application for raising additional ground and consequently the said ground is admitted to be heard on merits.

4. Since the application for seeking additional ground raised by the assessee has been allowed, therefore we would like to adjudicate this issue firstly as the same goes to the roots of the case. The additional grounds raised by the assessee are reproduced herein below:

Additional Ground.

The Appellant/assessee craves for leave to raise and state additional ground(s), which concerns the issue of jurisdiction u/s. 147 and goes to the root of the matter. It is submitted that the issue(s) of jurisdiction can be raised for the first time before this Hon'ble Tribunal. It is submitted that:

1) Date of notice u/s. 148 - The assessment has been framed u/s. 147, vide notice u/s. 148 dated 29th July 2022, for A.Y. 2017-18. Hence it is submitted that the reopening is beyond three years, from the end of the assessment year.

2) Approval u/s. 151- It is submitted that since the for the purpose of section 151, the appropriate authority is the Pr. Chief Commissioner of Income tax (PCCIT). Whereas the Ld. AO has obtained approval of the PCIT, as mentioned in para 3 of the notice u/s. 148 dated 22nd July 2022 (copy attached herewith). And, hence the reopening is bad-in-law & illegal.

5. From the records we noticed that the date of issuance of notice u/s 148 of the Act is on 29.07.2022 for A.Y 2017-18 and hence the reopening is beyond three years from the end of the assessment year. As per the provisions of Sec. 151 of the Act, the appropriate authority for seeking approval is Pr. CIT whereas the AO has obtained approval of Pr. CCIT as mentioned in para 3 of the notice u/s 148 of the Act dated 22.07.2022. In this regard I have perused the provisions of Sec. 151 of the Act and also the decision of the Coordinate Benches of ITAT mentioned herein below:

1. Satish Harnamadas Sethi in ITA No. 3091/Mum/2024.

2. Ramlal Suthar in ITA No. 3224/Mum/2024.

3. Ramchand Thakurdas Jhamtani ITA No. 3551/Mum/2024.

4. Devalbai Karsan Parmar ITA No. 1786/Mum/2025

6. Since the facts of the present case are very clear wherein the notice u/s 148 of the Act for reopening has been issued after three years from the end of the assessment year and admittedly the approval for issuance of said notice has been obtained in violation of Sec. 151 of the Act and therefore while relied upon the decision of Coordinate Bench of ITAT in the case of **Satish Harnamadas Sethi in ITA No. 3091/Mum/2024** and also keeping in view the facts of the present case I quashed the impugned notice u/s 148 of the Act, resultantly the

impugned reopening proceedings so initiated and the impugned reassessment order passed thereafter also stands quashed.

7. In the result the appeal filed by the assessee stands partly allowed.

Order pronounced in the open court on 04/11/2025

Sd/-
(SANDEEP GOSAIN)
(JUDICIAL MEMBER)

Mumbai:
Dated: 04/11/2025
KRK, Sr. PS.

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy

By order

(Asstt. Registrar)
ITAT, Mumbai