

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

**BEFORE SHRI R. K. PANDA, VICE PRESIDENT
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

**ITA No.1502/PUN/2025
Assessment year : 2016-17**

Manish Jashwantraai Bhuta Flat No.8, Pooja Apartment, Shivam Nagar, Hirawadi, Panchavati, Nashik – 422003	Vs.	ITO, Ward 1(1), Nashik
PAN: AGHPB1619F		
(Appellant)		(Respondent)

Assessee by : Shri Sanket M Joshi (through virtual)
Department by : Shri Manish M. Mehta
Date of hearing : 03-11-2025
Date of pronouncement : 20-11-2025

ORDER

PER R.K. PANDA, VP:

This appeal filed by the assessee is directed against the order dated 26.02.2025 of the Ld. CIT(A) / NFAC, Delhi relating to assessment year 2016-17.

2. There is a delay of 44 days in filing of the appeal before the Tribunal for which the assessee has filed a condonation application along with an affidavit explaining the reasons for such delay. After considering the contents of the condonation application filed along with the affidavit and after hearing the Ld. DR, the delay in filing of the appeal is condoned and the appeal is admitted for adjudication.

3. Facts of the case, in brief, are that the assessee is an individual and has filed his return of income declaring total income of Rs.3,65,210/-. Information was received by the Assessing Officer through Insight portal that during the financial year 2015-16 relevant to assessment year 2016-17 the assessee has made cash deposit of Rs.5,12,02,695/- in his bank account maintained with M/s. Shri Renuka Mata Multi State Urban Co-operative Credit Society Ltd. On verification of the e-filing record it was noticed that for the impugned assessment year the assessee has declared income of Rs.3,65,210/-. Accordingly, the re-opening assessment proceedings were initiated and notice u/s 148 of the Act was issued to the assessee on 20.04.2021. In the meanwhile, several writ petitions were filed by certain assesseees before the different Hon'ble High Courts across the country challenging the validity of similar notices issued u/s 148 of the IT Act. Thereafter, matter reached before Hon'ble Supreme Court. The Hon'ble Supreme Court has passed a judgement in Civil Appeal No.3005/2022 vide order dated 04.05.2022 (2022 SCC online SC 543) in the case of Union of India Vs. Ashish Agarwal on the validity of the issue of notice u/s 148 of the Act for re-assessment during the period beginning on 1st April 2021 and ending on 30th June 2021 i.e. the time extended by the Taxation and Other Laws (relaxation and Amendment of Certain Provisions) Act 2020. The Hon'ble Supreme Court decided the matter vide Order dated 04.05.2022 in the case of Union of India Vs. Ashish Agarwal as per which Notice issued u/s 148 of the IT Act between 01.04.2021 to 30.06.2021 shall be deemed to have been issued u/s 148A of the Act as mandated by the Finance Act, 2021 and shall be treated as show cause Notice as per section 148A(b) of the IT Act. The

Hon'ble Supreme Court also directed to provide to the respective assessee's information and material relied upon by the Revenue. In this case, notice u/s 148 of the IT Act was issued on 20.04.2021 to the assessee. Therefore, implementing the direction of the Hon'ble Supreme Court, case of the assessee was reopened after passing of Order u/s 148A(d) of the IT Act and accordingly notice u/s 148 of the Act was issued on 19.07.2022. The assessee in response to the same filed his return of income on 07.09.2022 declaring total income of Rs.14,44,680/-. The Assessing Officer, rejecting the various explanations given by the assessee regarding the source of cash deposit of Rs.5,12,02,695/-, made addition of the same to the total income of the assessee by invoking the provisions of section 68 of the Act.

4. In appeal the Ld. CIT(A) / NFAC upheld the addition made by the Assessing Officer.

5. Aggrieved with such order of the Ld. CIT(A) / NFAC, the assessee is in appeal before the Tribunal by raising the following grounds:

- 1] *The assessee submits that the notice u/s 148 for A.Y 2016-17 was issued on 19.07.2022 by obtaining approval u/s 151 from Pr. CIT-1, Nashik who is not the Authority prescribed for obtaining sanction u/s 151 for issuing the present notice u/s 148 for A.Y 2016-17 and therefore, the said notice u/s 148 issued without obtaining the requisite approval u/s 151 may be declared as null and void in law.*
- 2] *The assessee submits that the notice u/s 148 was issued on the basis of documents pertaining to the assessee seized during search action u/s 132 conducted on a third party i.e. M/s Renuka Mata Multi State Urban Co-operative Credit Ltd. on 26.05.2017 and therefore, the asst. proceedings initiated under the general provisions of section 147 without following the*

special procedure prescribed u/s 153C are not sustainable in law and therefore, the notice u/s 148 issued in the instant case, may be declared as null and void in law.

- 3] *The assessee submits that the notice u/s 148 dated 19.07.2022 issued by the Jurisdictional A.O. i.e. ITO, Ward 1(1), Nashik is illegal in view of the law laid down by Hon'ble Bombay High Court in case of Hexaware Technologies Ltd. v. ACIT [W.P. No. 1778/2023] and hence, the said notice u/s 148 may be declared as null and void in law.*
- 4] *The assessee submits that the notice u/s 148 dated 19.07.2022 issued without quoting DIN No in the body of the said notice is illegal in view of the law laid down by Hon'ble Bombay High Court in case of Hexaware Technologies Ltd. v. ACIT [W.P. No.1778/2023] and hence, the said notice u/s 148 may be declared as null and void in law.*
- 5] *The assessee submits that the application sent by the A.O to the higher authority for obtaining approval u/s 151 and the approval u/s 151 obtained from the Higher Authority u/s 151 has not been confronted to the appellant along with the Notice u/s 148 and hence, the notice u/s 148 may be declared as null and void in view of the law laid down by Hon'ble Delhi High Court in Tia Enterprises (P) Ltd. Vs. ITO [(2024) 468 ITR 5] and other decisions.*
- 6] *The assessee submits that the notice u/s 148 dated 19.07.2022 necessary for adjudicating the purely legal issues raised vide grounds of appeal hereinabove, is already available on record and the said legal issues are squarely covered in favour of the assessee by various decisions of Honorable Courts and hence, it is prayed that the said issue may kindly be adjudicated by Hon'ble ITAT itself without remanding the matter back to the CIT(A) to adjudicate this legal issue in view of the ratio laid down by Hon'ble Jurisdictional Bombay High Court in case of Coca Cola India (P) Ltd [368 ITR 487]*
- 7] *The assessee submits that the addition u/s 68 of Rs.5,12,02,695 made by the A.O. by holding that the entire cash deposits made in bank account with Renuka Mata Credit Co-op. Society are to be treated as unexplained cash credits without appreciating that the said cash deposits represented turnover of business of the assessee which was already offered to tax as sales, is apparently unjustified on facts of the case and in law.*
- 8] *The assessee submits that on identical facts, in the asst. order u/s 147 passed for A.Y 2015-16, the A.O. had accepted that the cash deposits made by the assessee in bank account with Renuka Mata Credit Co-op. Society represented turnover of business and only net profit thereon was assessed to tax as income by the A.O in the asst. order u/s 147 for A.Y.2015-16 and therefore, when there was no change in the material facts for A.Y 2016-17, the A.O. was absolutely unjustified in taking a different view as per the law*

consistently laid down by Hon'ble Supreme Court in various judicial decisions.

- 9] *Without prejudice to the above grounds, the assessee submits that the Id. CIT(A) erred in dismissing the appeal without taking any cognizance of the submissions duly uploaded by the assessee on income tax portal and without adjudicating the various contentions and grounds raised therein, resulting into wastage of valuable time and resources of assessee as well as the State and therefore, some cost, as may found appropriate by Hon'ble ITAT, may be levied on the CIT(A) passing the present appellate order.*
- 10] *The appellant craves leave to addition / alter amend any of the grounds of appeal.*

6. The Ld. Counsel for the assessee at the outset did not press grounds of appeal No.2 to 4, hence the same are dismissed as 'not pressed'.

7. So far as the remaining grounds are concerned, these all relate to the validity of re-assessment proceedings u/s 147 of the Act in absence of the requisite approval u/s 151 of the Act and the addition on merit.

8. So far as the validity of re-assessment proceedings are concerned, the Ld. Counsel for the assessee at the outset submitted that the notice was issued u/s 148 of the Act with the approval of the PCIT-1, Nashik. He submitted that since the assessment year involved in the instant case is assessment year 2016-17 and the notice u/s 148A(d) and the notice u/s 148 of the Act were issued on 19.07.2022 which were beyond the period of 3 years from the end of the relevant assessment year, therefore, the specified approving authority as per provisions of section 151 of the Act is the Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General

then, the Chief Commissioner or Director General. He submitted that since in the instant case valid approval has not been taken, therefore, such re-assessment proceedings being not in accordance with law be quashed.

9. Referring to the decision of the Co-ordinate Bench of the Tribunal in assessee's own case for assessment year 2017-18 vide ITA No.1503/PUN/2025 order dated 08.09.2025, he submitted that under identical circumstances the Tribunal, following the decision of the Hon'ble Madras High Court in the case of Core Logistic Company vs. ACIT & Ors. reported in (2025) 9 NYPCTR 879 (Mad), has quashed such re-assessment proceedings. He accordingly submitted that since the approval in the instant case has not been granted by the designated authority, therefore, such approval not being in accordance with law for reopening of the assessment, such re-assessment proceedings have to be quashed.

10. The Ld. DR on the other hand submitted that due procedure has been followed by the Assessing Officer and therefore, such re-assessment proceedings are in accordance with law.

11. We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and Ld. CIT(A) / NFAC and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us. It is an admitted fact that the approval in the instant case for issue of notice u/s 148A(d) as well as notice u/s 148 of the Act has been obtained from the

PCIT-1, Nashik. It is also an admitted fact that the assessment year involved is assessment year 2016-17 and such notice u/s 148A(d) as well as notice u/s 148 of the Act were issued on 19.07.2022 which is beyond the period of 3 years from the end of the relevant assessment year. Copies of such notices are placed at pages 1 to 4 of the paper book.

12. We find an identical issue had come up before the Co-ordinate Bench of the Tribunal in assessee's own case for assessment year 2017-18. We find the Tribunal vide ITA No.1503/PUN/2025 order dated 08.09.2025 has quashed such re-assessment proceedings by observing as under:

"5. I have heard rival contentions and perused the record placed before me. Validity of re-assessment proceedings carried out u/s 147 r.w.s 144B of the Act dated 23.05.2023 have been challenged on the ground that valid notice u/s 148 of the Act has not been issued because no proper approval u/s 151 of the Act has been taken. Ld. Counsel for the assessee has referred and relied on plethora of decisions and judgements. I would however like to refer to the judgement of the Hon'ble High Court of Madras in the case of Core Logistic Company (Supra) wherein Hon'ble Court dealing with the very same issue has held as under:-

5. I have given due considerations to the submissions made on either side and perused the materials available on record.

6. In the present case, the issue is pertaining to the asst. yr. 2016-2017. The relevant law applicable for issuance of notice under s. 148 is as follows:

"148. Before making the assessment, reassessment or recomputation under s. 147, and subject to the provisions of s. 148A. the AO shall serve on the assessee a notice, along with a copy of the order passed, if required, under cl. (d) of s. 148A, requiring him to furnish within such period, as may be specified in such notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act

shall, so far as may be, apply accordingly as if such return were a return required to be furnished under s. 139:

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

Provided further that no such approval shall be required where the AO, with the prior approval of the specified authority, has passed an order under ci, (d) of s. 148A to the effect that it is a fit case to issue a notice under this section.

Explanation. 1-For the purposes of this section and s. 148A, the information with the AO which suggests that the income chargeable to tax has escaped assessment means,-

(i) any information in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board from time to time;

(ii) any audit objection to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act, or

(iii) any information received under an agreement referred to in s. 90 or s. 90A of the Act; or

(iv) any information made available to the AO under the scheme notified under s. 135A or

(v) any information which requires action in consequence of the order of a Tribunal or a Court Explanation. 2 For the purposes of this section, where,-

(i) a search is initiated under s. 132 or books of account, other documents or any assets are requisitioned under s. 132A, on or after the 1st day of April, 2021, in the case of the assessee, or

(ii) a survey is conducted under s. 133A, other than under sub-s. (2A) 22(.....) of that section, on or after the 1st day of April, 2021, in the case of the assessee; or

(iii) the AO is satisfied, with the prior approval of the Principal CIT or CIT, that any money, bullion, jewellery or other valuable article or thing, seized or requisitioned under s. 132 or s. 132A in case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or

(iv) the AO is satisfied, with the prior approval of Principal CIT or CIT, that any books of account or documents, seized or requisitioned under s. 132 or s. 132A in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee, the AO shall be deemed to have information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee where the search is initiated or books of account, other documents or any assets are requisitioned or survey is conducted in the case of the assessee or money, bullion, jewellery or other valuable article or thing or books of account or documents are seized or requisitioned in case of any other person.

Explanation. 3. For the purposes of this section, specified authority means the specified authority referred to in s. 151."

7. A perusal of the above provision would show that, before issuing any notice under s. 148, the AO has to obtain prior approval of the specified authority to issue such notice. The specified authority is also defined in explanation of the above provision. As per the above provision, specified authority is the authority who referred to in s. 151.

8. At this juncture, it would be relevant to extract the provision of s. 151, which is as follows:

"Specified authority for the purposes of s. 148 and s. 148A shall be:

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

(ii) Principal Chief CIT or Principal Director General or Chief CIT or Director General, if more than three years have elapsed from the end of the relevant assessment year."

9. A perusal of s. 151(1) would show that, the specified authority for the purpose of issuing notice under s. 148 within a period of three years from the end of the relevant assessment year is, the Principal CIT or Principal Director or CIT or Director. Further, in terms of provision of s. 149, three year time period is fixed for issuance of 148 notice, in the event of the amount is below 50 lakhs. In the present case, the amount involved is Rs. 3,65,09,748, which is more than 50 lakhs. 148 notice was issued on 25th July, 2022, which is beyond the period of three years. So admittedly, the approval has to be obtained from the Principal Chief CIT or Principal Director General or Chief CIT or Director General as defined under s. 151(ii). But, in the present case, the approval was obtained from the

Principal CIT in terms of s. 151(i) and no approval was obtained before Issuance of 148 notice in terms of provision of s. 151(ii), which is mandatory. Therefore, the notice under s. 148 was issued in the present case in violation of provision of s. 151(ii) of the IT Act. In view thereof, the initiation of proceedings itself is without any jurisdiction. Hence, the same is liable to be quashed.

10. Accordingly, the impugned proceedings of the 3rd respondent dt. 30th May, 2023 is hereby quashed.

11. In the result, this writ petition stands allowed. Consequently, connected miscellaneous petitions are closed.

6. Now examining the facts of the instant case, in the light of the above judgement I notice that the notices u/s 148 of the Act for carrying out the reassessment proceedings for A.Y. 2017-18 has been issued on 20.07.2022. Also the first notice u/s 148A(b) has been issued on 26.05.2022. Therefore the notices u/s 148 of the Act has been issued after three years from the end of the Assessment Year. Now since the notice has been issued after three years from the end of A.Y. 2017-18, Ld. AO is required to take approval u/s 151 of the Act from Principal Chief Commissioner, Income Tax and other Officers mentioned in section 151(ii). However Ld. AO in the instant case has taken the approval from the authorities mentioned in section 151(i) of the Act i.e. from Principal Commissioner of Income Tax and such approval is valid only if the notice u/s 148 of the Act has been issued in less than three years from the end of relevant A.Y. I therefore find that Ld. AO has not taken a valid approval as provided in section 151 of the Act and in absence of such valid approval the notice issued u/s 148 of the Act is without jurisdiction, bad in law and is in violation in provisions of section 151(ii) of the Act. Therefore the initiation of the reassessment proceedings in the instant case is without any jurisdiction and therefore such proceedings are quashed. The legal issue raised in ground No. 1 in assessee's appeal is allowed. Dealing with the remaining grounds would be nearly academic in nature as the reassessment proceedings have already been quashed and impugned additions deleted. Grounds of appeal raised by the assessee are allowed as per terms indicated above."

13. Since the facts of the present case are identical to the facts of the case decided by the Tribunal in assessee's own case for assessment year 2017-18, therefore, in absence of any contrary material brought to our notice, we hold that such re-assessment proceedings are not in accordance with law due to inappropriate approval obtained from the higher authority. Accordingly, the same

is quashed. Since the assessee succeeds on this legal ground, the grounds challenging the addition on merit are not being adjudicated.

14. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open Court on 20th November, 2025.

Sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER
पुणे Pune; दिनांक Dated : 20th November, 2025
GCVSR

Sd/-
(R. K. PANDA)
VICE PRESIDENT

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent
3. The concerned Pr.CIT, Pune
4. DR, ITAT, 'A' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे
/ ITAT, Pune

S.No.	Details	Date	Initials	Designation
1	Draft dictated on	12.11.2025		Sr. PS/PS
2	Draft placed before author	12.11.2025		Sr. PS/PS
3	Draft proposed & placed before the Second Member			JM/AM
4	Draft discussed/approved by Second Member			AM/AM
5	Approved Draft comes to the Sr. PS/PS			Sr. PS/PS
6	Kept for pronouncement on			Sr. PS/PS
7	Date of uploading of Order			Sr. PS/PS
8	File sent to Bench Clerk			Sr. PS/PS
9	Date on which the file goes to the Head Clerk			
10	Date on which file goes to the A.R.			
11	Date of Dispatch of order			