



आयकर अपीलीय अधिकरण "एस एम सी" न्यायपीठ पुणेमें।
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES "SMC" :: PUNE

BEFORE DR.DIPAK P. RIPOTE, ACCOUNTANT MEMBER
AND
SHRI VINAY BHAMORE, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2034/PUN/2025

निर्धारण वर्ष / Assessment Year: 2018-19

Mr.Ramsoch Dashrath Yadav, Tayappa Chawl, Near Urdu School, Kharalwadi, Pimpri, Pune – 411018.	V s	1.The Income Tax Officer, Ward-8(2), Pune. 2.Assistant/Dy.Commissioner of Income Tax/Income Tax Officer, National Faceless Assessment Centre, Delhi.
PAN: ACYPY0615P		
Appellant/ Assessee		Respondent / Revenue

Assessee by	Dr.Prashant Munot
Revenue by	Shri Ambarnath Khule-JCIT(Through Virtual Hearing)
Date of hearing	26/11/2025
Date of pronouncement	27/11/2025

आदेश/ ORDER

PER DR. DIPAK P. RIPOTE, AM:

This is an appeal filed by the Assessee against the order of
Id.Commissioner of Income Tax(Appeal)[NFAC] passed under
section 250 of the Income Tax Act, 1961 for the A.Y.2018-19 dated
30.06.2025 emanating from the Assessment Order passed under



section 147 r.w.s 144B of the Act, dated 20.02.2024. The Assessee has raised the following grounds of appeal :

“Wherever the context so require, each of the following grounds of appeal & prayers are independent, without prejudice to each other and in alternative.

A) Validity of Reopening of Assessment :

1. On the facts and circumstances of the case and in law, the issue of Notice under section 148A(b) of the Income Tax Act [in short "the Act"], Order passed under section 148A(d) of the Act, approval/sanction granted by the competent authority; invocation of jurisdiction under section 147; issue of Notice under section 148 of the Act; and the reopening of the assessment by the learned Assessing Officer as confirmed by the learned Commissioner of Income Tax (Appeals) [in short "CIT (Appeals)"] was without satisfying the jurisdictional pre-conditions, was barred by limitation and was invalid, void ab-initio, without jurisdiction and bad in law.

B) Validity of ex-parte disposal of the Appeal without deciding/ disposing in accordance with law, the Application filed by the Appellant under section 131(1) (a) & (c) of the Act praying for directions for Production of Evidence and documents by the Respondents:

2. On the facts and circumstances of the case and in law, the learned CIT (Appeals) committed a fundamental error of law, in failing to decide and/or dispose in accordance with the law the Application filed by the Appellant under section 131(1) (a) & (c) of the Act for Discovery and Production of essential Evidence and documents on record by the Respondents, before proceeding further on adjudication in the matter; and in disposing the first appeal ex-parte against the Appellant without any opportunity of hearing.



C) On Merits: Correctness of additions based on adhoc-estimated Net Profit Ratio, without rejecting book results and without any rational/comparative basis:

3. On the facts and circumstances of the case and in law, the learned CIT (Appeals) erred in sustaining the impugned additions by adopting an exorbitant estimated Net Profit @4% of the Sales Turnover without rejecting the book results/financial statements filed on record; without any rational and/or comparative basis; and without appreciating the factual matrix of the case in its proper perspective.

D) Non Speaking, arbitrary & mechanical Order and Violation of Principles of Natural Justice:

4. The learned CIT (Appeals) erred both on facts and in law, in passing an ex-parte adverse appeal order confirming the impugned assessment order, without disposing in accordance with the law the preliminary Application for discovery and production of evidence, without granting any opportunity to the Appellant, despite specific requests, for filing its written submissions and evidence after disposal of the aforesaid Application on record; disregarding and/or ignoring the binding judicial precedents; in failing to appreciate the facts and circumstances of the case and the correct legal position in its proper perspective; and in gross violation of the principles of natural justice, thereby rendering the order arbitrary, unjust, void ab-intio, perverse and bad in law.

E) Common Legal Ground:

5. The learned CIT (Appeals) erred both on facts and in law, in determining the Net business income of the Appellant at Rs. 16,59,760/- as against the Returned Business Income of Rs.297,195/-in the Return of Income filed in response to Notice under section 148 of the of Act.



6. *In any view of the matter and in any case, the invocation of jurisdiction under section 147-148-148A of the Act; reopening of the assessment; the assessment proceedings conducted in furtherance thereof; the impugned assessment order passed by the learned Assessing Officer, and the impugned appeal order passed by the learned CIT (Appeals), all were contrary to the law, facts and circumstances of the case, and were otherwise bad-in-law.*

The appellant craves leave to add, amend, alter, vary and/or withdraw any or all the above grounds of appeal and/or to adduce and rely upon such further evidence/additional evidence and/or documents as may be required at any time before and during the time of hearing.

PRAYER

The Appellant most respectfully prays as under:

1) *The Notice issued under section 148 of the Act may kindly be quashed as being issued without satisfying the jurisdictional pre-conditions; being barred by limitation; and being void ab-initio, invalid, without jurisdiction and bad in law.*

2) *The entire assessment proceedings and the impugned assessment order may kindly be declared as illegal, invalid, void ab-initio and bad in law; and consequently, or otherwise, the impugned assessment order may kindly be quashed and annulled/cancelled.*

3) *The additions made in the impugned assessment order, as confirmed by the learned CIT (Appeals), may kindly be deleted/cancelled.*

4) *In the event, your Honour's arrive at a conclusion that the reopening of the assessment, the Notice issued under section 148 of the Act, the*



assessment proceedings conducted, the impugned assessment order passed, and the first appeal order confirming the said assessment order, all are valid and sustainable in law, in that event

1) The Additional Evidence being filed on record before your Honour's may kindly be taken on record and may kindly be allowed;

ii) The impugned assessment order may kindly be set aside and the matter may kindly be restored to the file of the learned Assessing Officer for assessing the Net Business Income of the Appellant duly considering the Additional Evidence filed on record. and in tune with the net margins in the line of business in which the Appellant is engaged.

5) Such other order(s) in favour of the appellant, as your Honour's deems fit in the facts and circumstances of the case, may kindly be passed.

6) The Implementation of the impugned assessment order as confirmed by the learned CIT(A); and the Recovery of impugned Demand, and the Penalty proceedings initiated under section 270A, section 271A, section 271B and section 272A(1)(d) of the Act, may kindly be stayed till disposal of present appeal on merits.

7) Any further order in favour of the Appellant, in the interest of justice and equity may kindly be passed.”

Findings & Analysis :

2. We have heard both the parties and perused the records.

Ld.AR for the Assessee filed a paper book. Ld.AR invited our



attention to notice u/s.148 of the Act, dated 12.04.2022 which is at page no.9 of the paper book. Ld.AR submitted that the notice u/s.148 of the Act, dated 12.04.2022 for A.Y.2018-19 has been approved by Principal Commissioner of Income Tax, Pune-3. Ld.AR submitted that since more than three years have been lapsed from the end of the Assessment Year 2018-19, as per provisions of the Act, the notice u/s.148 should have been approved by Principal Chief Commissioner of Income Tax. Ld.AR relied on the decision of the Jurisdictional High Court in the case of Vodafone Idea Limited Vs. DCIT in Writ Petition No.2768 of 2022 vide order dated 06.02.2024.

3. We have studied the paper book filed by the ld.AR. It is observed that notice u/s.148 for A.Y.2018-19 dated 12.04.2022 has been approved by Principal Commissioner of Income Tax, Pune-3. It is also observed that order u/s.148A(d) of the Income Tax Act, for A.Y.2018-19 dated 12.04.2022 has been approved by Principal Commissioner of Income Tax. Page 27 of the paper book is reproduced here as under :



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05/04/2022	Response from Assessee	RAMSOCH DASH RATH YADAV		
Notings/Remarks: Dear Sir As need to fetch old records, please give adjournment for atleast next 15 days. Ramsoch				
Signature:				
06/04/2022	Added Additional Remarks	WARD 8(3), P UNE		
Notings/Remarks: As per assessee's request, an adjournment has been granted. it is requested to submit reponse on or before 10.04.2022.				
Signature:				
11/04/2022	Approval for Proceeding u/s 148A	WARD 8(3), P UNE	RANGE 8, PUN E	
Notings/Remarks: Draft Order is hereby submitted for kind perusal and necessary approval.				
Signature:				
11/04/2022	Approval for Proceeding u/s 148A	RANGE 8, PUN E	PCIT, Pune-3	
Notings/Remarks: Sir, The JAO has submitted the draft order; I concur with the view of the JAO, the same is submitted for your good self kind perusal and necessary approval				
Signature:				
11/04/2022	The specified authority has granted approval for issue of Order u/s 148A(d)	PCIT, Pune-3	WARD 8(3), P UNE	
Notings/Remarks: Approved				
Signature:				

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Ramsoch Yadav

4. The Assessee had obtained information under the Right to Information Act, which Assessee has filed in the paper book at page no.22 to 28.



5. Ld.DR for the Revenue has not rebutted these facts. Section 151 of the Income Tax Act is reproduced here as under :

“[Sanction for issue of notice.

151. *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.***

(Emphasis supplied)

6. It is observed that Hon’ble Bombay High Court in the case of Vodafone Idea Limited Vs. DCIT in Writ Petition No.2768/2022 vide order dated 06.02.2024 has allowed assessee’s appeal. The relevant paragraphs of the judgment are reproduced as under :

“1. Petitioner is impugning a notice dated 19 March 2022 issued under Section 148A(b) of the Income Tax Act, 1961 ("the Act"), the order passed under Section 148A(d) of the Act and the notice both dated 7 April 2022 issued under Section 148 of the Act. One of the grounds raised is that the sanction to pass the order under Section 148A(d) of the Act and issuance of notice under Section 148 of the Act is invalid inasmuch as the sanction has been admittedly issued by the Principal Commissioner of Income Tax ("PCIT") and not by the Principal Chief Commissioner of Income Tax (PCCIT").

2. Petitioner's request for a copy of the sanction has also been denied. Even in the affidavit in reply, the Department is refusing to give the sanction which makes us wonder what is the national secret involved in



that, that Assessee is being refused what he is rightfully entitled to receive from the Department. In the affidavit in reply, the stand taken by the Revenue is it will be made available during the re-assessment proceeding.

3. The impugned order and the impugned notice both dated 7th April 2022 state that the Authority that has accorded the sanction is the PCIT, Mumbai 5. The matter pertains to Assessment Year ("AY") 2018-19 and since the impugned order as well as the notice are issued on 7th April 2022, both have been issued beyond a period of three years. Therefore, the sanctioning authority has to be the PCCIT as provided under Section 151 (ii) of the Act. The provisio to Section 151 has been inserted only with effect from 1" April 2023 and, therefore, shall not be applicable to the matter at hand.

4. In this circumstances, as held by this Court in Siemens Financial Services Private Limited Vs. Deputy Commissioner of Income Tax & Ors., the sanction is invalid and consequently, the impugned order and impugned notice both dated 7th April 2022 under section 148A(d) and 148 of the Act are hereby quashed and set aside. ”

6.1 Thus, it can be observed that in the case of Vodafone Idea Limited(supra), order u/s.148A(d) and notice u/s.148 was dated 07.04.2022, approved by Pr.CIT for A.Y.2018-19. In the case of the present assessee i.e.Mr.Ramsoch Dashrath Yadav the notice u/s.148 for A.Y.2018-19 and order u/s.148A(d) for A.Y.2018-19 are dated 12.04.2022 and approved Pr.CIT, Pune-3. Thus, the facts in the case of Vodafone Idea Limited and assessee are identical. Therefore, respectfully following the Hon’ble Jurisdictional High Court, since



the notice u/s.148 and order u/s.148A(d) has been approved by Pr.CIT for A.Y.2018-19, whereas as per section 151 of the Income Tax Act, the approval of Principal Chief Commissioner of Income Tax or Chief Commissioner of Income Tax was required, therefore, the notice u/s.148 is hereby quashed. Accordingly, legal ground raised by the assessee is allowed.

7. Since we have decided the legal ground in favour of assessee, all other grounds become academic in nature and dismissed as adjudicated. Accordingly, grounds of appeal raised by the Assessee are partly allowed.

8. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open Court on 27 November, 2025.

Sd/-
VINAY BHAMORE
JUDICIAL MEMBER

Sd/-
Dr.DIPAK P. RIPOTE
ACCOUNTANT MEMBER

पुणे / Pune; दिनांक / Dated : 27 Nov, 2025/ SGR

आदेशकीप्रतिलिपिअग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A), concerned.
4. The Pr. CIT, concerned.
5. विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, "एस एम सी" बेंच, पुणे / DR, ITAT, "SMC" Bench, Pune.
6. गार्डफ़ाइल / Guard File.



ITA No.2034/PUN/2025 [A]

आदेशानुसार / BY ORDER,

/ / TRUE COPY / /

Senior Private Secretary
आयकर अपीलिय अधिकरण, पुणे/ITAT, Pune.